

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 12.06.2019

CORAM

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

**CRP(PD) No.3289 of 2017 &
CMP.15325 of 2017**

1. Jayakumar
2. Sarasu

.. Petitioners

-vs-

Santhi @ Muthalammal
No.19, Bhagavat Singh Street,
Subbiah Nagar, Ariyankuppam,
Puducherry – 7.

.. Respondent

Prayer: Civil Revision Petitions filed under Article 227 of Constitution of India against the fair order and decretal order dated 02.08.2017 in I.A.No.156 of 2017 in O.S.No.161 of 2009 on the file of Principal Subordinate Judge, Puducherry.

For Petitioner : Mr.G. Rajan

ORDER

The present Civil Revision Petition is directed against the order passed in I.A.No.156 of 2017 in O.S.No.161 of 2009 filed under Order 12, Rule 6 of CPC.

2. The petitioners herein are the defendants in the above suit. The plaintiff/respondent filed the suit against the petitioners/defendants for the following reliefs;

a. to cancel the unregistered impugned sale agreement dated 10.5.2007 entered between plaintiff and first defendant;

b. to direct the defendants to receive the consideration of Rs.2,00,00/- passed on said sale agreement dated 10.5.2007

c. to direct the defendants to hand over back either blank stamped and blank sheets signed by plaintiff along with original registered sale deed dated 11.6.1998 in the name of plaintiffs;

d. to grant permanent injunction in favour of the plaintiff restraining the defendants from interfering with the peaceful possession of plaintiff schedule property.

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3. Pending suit, the petitioners/defendants filed I.A.No.156 of 2017 in the suit under Order 12, Rule 6 r/w.151 CPC, praying for dismissal of the suit on the ground that the plaintiff in her evidence

admits that she does not know as to what suit she had filed. The petitioners have filed the petition under the above provision at the stage when the matter was posted for arguments.

4. The contention of the petitioners is that the plaintiff had deposed that she was not aware of the suit filed by her and also signed in the papers as per the instructions of the Advocate and further the signature found in chief examination and additional chief examination are not her signatures. Based on the above, the petitioners would pray for dismissal of the suit on the ground of admission under Order 12, Rule 6 CPC.

5. On perusal of the records, it is seen that after her examination, PW2 to PW4 were cross examined and plaintiff side evidence was closed and the suit was posted for defendant's side evidence. At that stage, the petition filed by the petitioners under Order 12, Rule 6 CPC praying for dismissal of the suit based on the evidence of the plaintiff is not sustainable. The trial Court has to weigh the entire evidence of the parties to the suit and will take a decision.

M.GOVINDARAJ, J.

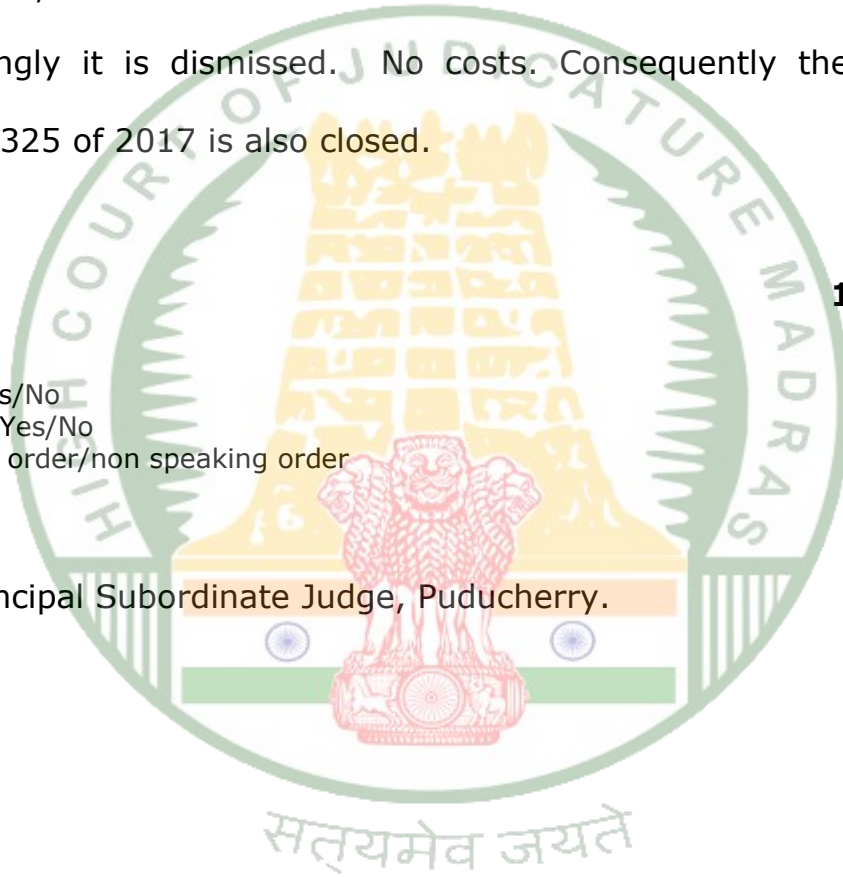
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6. The trial court has considered the whole evidence and came to a right conclusion that the suit cannot be dismissed at that stage. Therefore, the Civil Revision Petition merits no consideration and accordingly it is dismissed. No costs. Consequently the connected CMP.15325 of 2017 is also closed.

12.06.2019

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Index:yes/No
Internet:Yes/No
speaking order/non speaking order

To
The Principal Subordinate Judge, Puducherry.

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