

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.02.2019

CORAM

THE HONOURABLE Ms. JUSTICE P.T.ASHA

C.R.P.(PD) No.4211 of 2017
in
C.M.P.No.19740 of 2017

P.Parthasarathy ... Appellant

Vs.

1.V.Kesavan
2.K.Muthukumar
3.Tmt.Kalaiselvi
4.Tmt.Rajakumari ... Respondents

Prayer : Civil Revision Petition is filed under article 227 of the Constitution of India to set aside the order of the learned Additional Sub-Judge, Tindivanam, Villupuram District made in I.A.No.47 of 2016 in O.S.No.170 of 2013 dated 14.06.2017 and award costs.

For Appellant : Mr.S.Ayyathurai

For Respondents : Mr.C.Munnusamy
for R1 to R4.

JUDGMENT

The above Civil Revision Petition is filed challenging the order directing joint trial of the suit, O.S.No.170 of 2013, along with the suit

in O.S.No.160 of 2014.

2. The facts in brief are as follows:

3. The suit in O.S.No.170 of 2013 has been filed by the revision petitioner against the defendants in the suit O.S.No.160 of 2014. The revision petitioner has claimed title to the suit property on the basis of the sale deed dated 07.11.2008 from one Munusamy Pathar. The second suit namely O.S.No.160 of 2014 has thereafter been filed by Santha, Krishnamoorthy, Sakarapani, Perumal, Elumalai, Murugan, Ramachandran against the same defendants as found in O.S.No.170 of 2013. The suit in O.S.No.170 of 2013 is filed for declaration and permanent injunction and the suit in O.S.No.160 of 2014 is filed for partition. It is seen that the plaintiff in the suit in O.S.No.170 of 2013 is not a party to the subsequent suit O.S.No.160 of 2014. It is also seen that the suit in O.S.No.170 of 2013 is with reference to two items of suit property which are situated in Mavaleanan Taluk, Villupuram District. The suit in O.S.No.160 of 2014, which is filed for partition, contains 11 items of suit property and except for the first item of the suit property, all other properties are different. The learned Judge has not applied her mind to the issues pending before directing the Joint Trial.

4. Considering the facts that the plaintiffs are different in both the suits and only the defendants are common and the fact that the relief claimed as well as the properties are totally different, the order directing the joint trial, deserves to be set aside. Accordingly, the impugned order is set aside.

5. In the result, the Civil Revision Petition is allowed.

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ssb/dua

Index : Yes / No

Internet : Yes / No

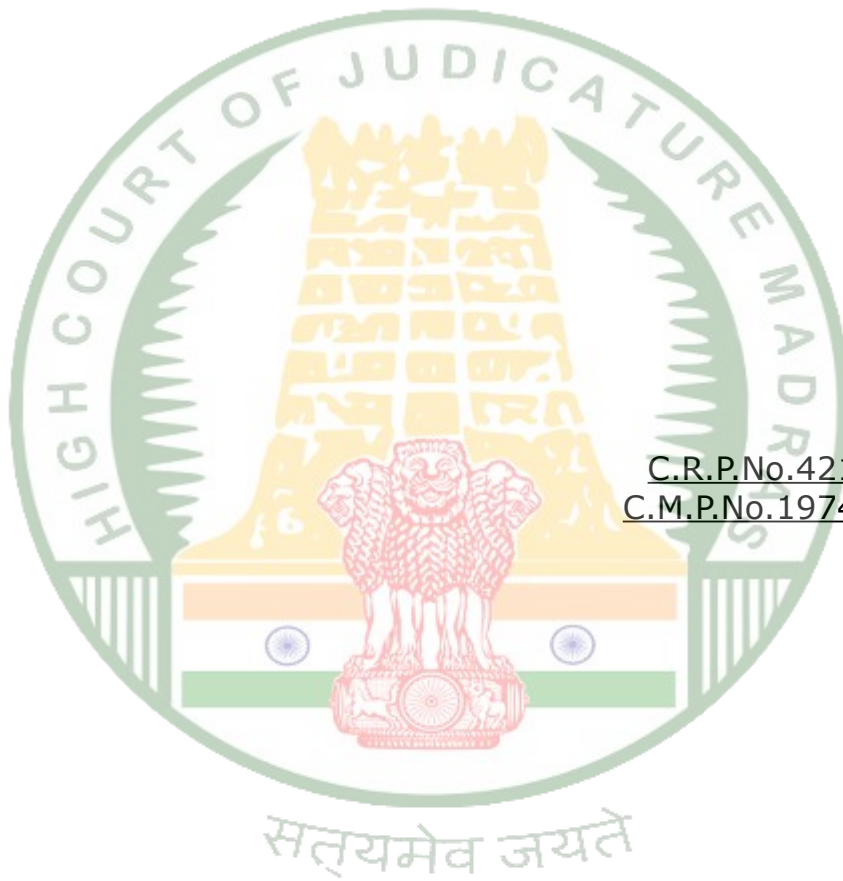
Speaking Order/Non-speaking Order

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P.T.ASHA,J.,

ssb/dua



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