

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.11.2019

CORAM:

THE HONOURABLE Mr. JUSTICE R. SURESH KUMAR

C.R.P. (PD) Nos. 3833 and 3834 of 2019

and

C.M.P. Nos. 25284 and 25286 of 2019

Selvi @ Chellammal

... Petitioner
in both CRPs

-Vs-

1. Subbathal
2. Chinnammal (died)
3. Mayilathal (died)
4. Pappathi @ Sarasammal
5. Seeniappan
6. Pappathi @ Rajamani
7. M. Kalisamy
8. G. Balasundaram
9. K. Balakrishnan
10. Mari Kutty @ Mani
11. Balasubramani
12. Lakshmi
13. Easwari
14. Amsaveni

... Respondents
in both CRPs

Prayer in C.R.P. (PD) No. 3833 of 2019 : Petition filed under Article 227 of the Constitution of India to set aside the common order passed in I.A. No. 2 of 2019 in O.S. No. 443 of 2013 on the file of the Principal Sub Court, Coimbatore, consequently allow the I.A. No. 2 of 2019 in the said suit.

Prayer in C.R.P. (PD) No. 3834 of 2019 : Petition filed under Article 227 of the Constitution of India to set aside the common order in passed in I.A. No. 3 of 2019 in O.S. No. 443 of 2013 on the file of the Principal Sub Court, Coimbatore, consequently allow the I.A. No. 3 of 2019 in the said suit.

For Petitioner
in both CRPs : Mr. R. Krishnan

COMMON ORDER

These Civil Revision Petitions have been filed against the fair and decretal order made in I.A. Nos. 2 and 3 of 2019 in O.S. No. 443 of 2013 on the file of the Principal Sub Court, Coimbatore, by order dated 03.10.2019.

2. Before the trial Court, the petitioner is the 14th defendant, who claimed to have been the purchaser of the property from the 8th defendant and the written statement has been filed by the 8th and 14th defendants supporting each other and are sailing together.

3. When that being so, the 8th defendant has already been examined as DW1 on behalf the defendants and the evidence has also

been closed. At this juncture, the present petition was filed by the 14th defendant seeking permission to reopen and recall DW1, who is the 8th defendant for cross-examination by the 14th defendant i.e., present revision petitioner.

4. These applications since have been rejected through the impugned order, aggrieved over the same, the present revision petitions have been filed.

5. Heard Mr. R. Krishnan, learned counsel appearing for the revision petitioner and have gone through the materials placed before this Court including the impugned order.

6. The reason cited by the learned Judge for rejecting these applications is that, already DW1 was examined on behalf of the 8th defendant, who is none other than the vendor of the 14th defendant, from whom the 14th defendant purchased the property. The stand taken by the 8th and 14th defendants is supporting each other and in fact both 8th and 14th defendants are sailing together in the suit.

7. When that being so, nothing contrary can be elucidated from DW1, since 14th Defendant is not an adversary party to 8th defendant, hence the question of examining DW1, the witness stood on behalf of the 8th defendant, by the 14th defendant, does not arise.

8. In that view of the matter, the learned Judge rightly rejected the applications, which in the considered opinion of this Court, is fully justifiable and sustainable and absolutely there is no infirmity found in the said order.

9. Accordingly, these Civil Revision Petitions fail and hence they are dismissed. It is made clear that, in future, if the 8th defendant takes a contra stand to the 14 defendant, it is open to the 14th defendant to cross-examine the witness of the 8th defendant. Consequently, connected Miscellaneous Petitions are closed. No costs.

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Index: Yes / No

Speaking order / Non speaking order

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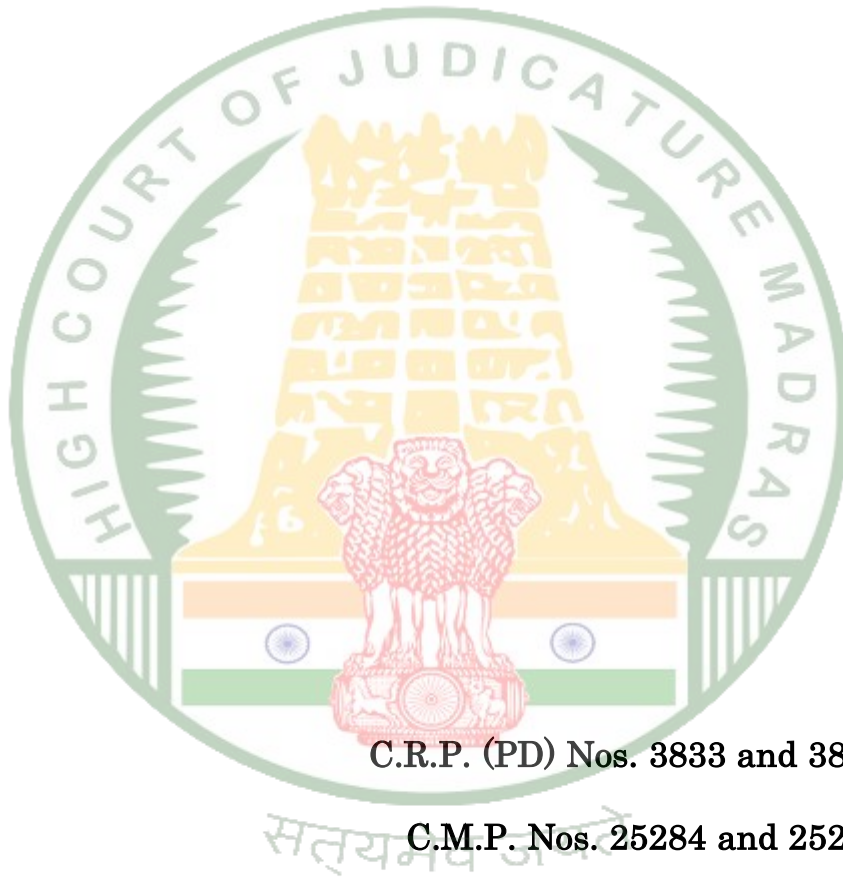
The Principal Sub Court,
Coimbatore.



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R. SURESH KUMAR, J.

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