

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 27.08.2020

Coram:

THE HONOURABLE **MR.JUSTICE P.VELMURUGAN**

C.R.P.(PD) No.2177 of 2010
and M.P.No. 1 of 2010

R.Chinnaiyan ... Petitioner/Plaintiff
Vs.

1. Kuppusamy
2. Gunasekaran ... Respondents/Defendants

Prayer : Civil Revision Petition has been filed under Article 227 of the Constitution of India against the order and decretal order in I.A.No.179 of 2002 in O.S.No.16 of 2001 dated 14.11.2002 on the file of District Munsif Court, Thiruthuraipoondi.

For Petitioners : A.Ilango

For Respondents : Notice not served for
R1, R2 and R4
Notice served for R3

ORDER

The petitioner herein has filed the suit in O.S.No.16 of 2001 on the file of the District Munsif Court, Thiruthuraipoondi, for

declaration and permanent injunction. After the written statement filed by the respondents, the petitioner has filed the reply statement and also filed the petition in I.A.No.179 of 2002, to condone the delay in filing the reply statement and the said petition was dismissed. Challenging the said order passed by the Trial Court, the petitioner filed this revision petition before this Court.

2. During the pendency of the revision, the petitioner died 23.07.2005. Therefore, CMP.No.1591 of 2006 has been filed to bring the legal representatives of the deceased petitioner as proposed petitioners 1 to 3 and proposed respondents 3 and 4. Notice in the said CMP was ordered by this court on 05.08.2010. However, notice was served only to the proposed third respondent. Though the petitioner died long back, the counsel for the petitioner has not taken any steps to serve the notice to the first and second respondents and proposed fourth respondent.

3. The Civil Revision Petition was initially filed in the year 2003 with a petition in C.M.P.No.12997 of 2003 to condone the delay of 70 days in filing the Civil Revision Petition. During the

pendency of the said Civil Miscellaneous Petition he filed application in C.M.P.No.1591 of 2006 to bring the legal heirs of the deceased petitioner. But after ordering notice in C.M.P.No.1591 of 2006, neither the Registry listed the matter nor the counsel for the petitioner himself sought for posting the case. Even after the matter was posted on 10.02.2020, the counsel has not taken any effective steps to file batta and for service of notice, till date. The matter is pending for more than fourteen years even without serving notice on the first and second respondents and the proposed fourth respondent.

4. The Civil Revision Petition is arising out of order dated 14.11.2002 passed in I.A No.179 of 2002, to condone the delay in filing the petition to receive the reply statement. The reply statement is not pleadings. The properties mentioned in the reply statement has not at all been stated in the pleadings. It is the matter for evidence.

5. Under these circumstances, even if it is arising out subsequently, it can be considered only at the stage of trial.

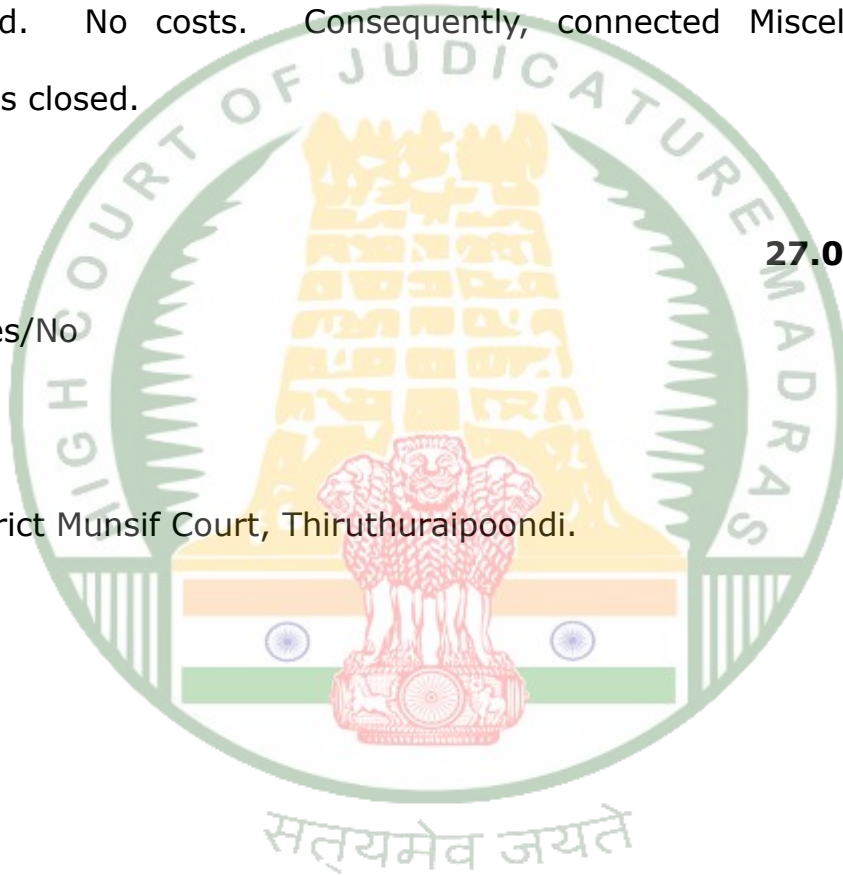
Therefore the revision is dismissed as devoid of merits. As far as CMP.No. 1591 of 2006 is concerned, the petitioner is directed to take steps before the Trial Court in the suit. Therefore, with the above direction and observations, the Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

27.08.2020

Index:Yes/No
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To

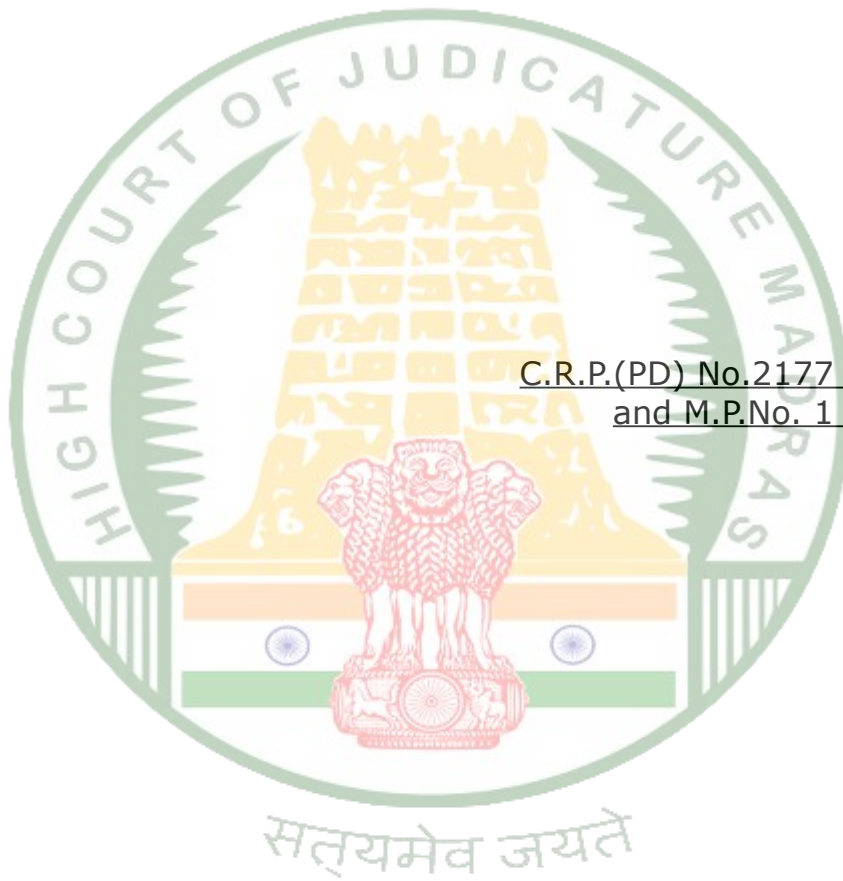
The District Munsif Court, Thiruthuraipoondi.



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P.VELMURUGAN, J.,
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