

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.11.2020

CORAM:

THE HON'BLE MR.JUSTICE P.RAJAMANICKAM

C.R.P(PD).No.1378 of 2015

and

M.P.No.1 of 2015

G.Jawad Hussain Petitioner

Vs.

Nougat Christian ... Respondent

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal orders passed dated 29.01.2015 in I.A.No.2269 of 2014 in O.S.No.122 of 2013 on the file of the Principal District Court, Puducherry.

For Petitioner : Mr.T.Sezhian

For Respondent : Mr.R.Marudhachalamurthy

ORDER

This Civil Revision Petition has been filed by petitioner/plaintiff against the dismissal of his application in I.A.No.2269 of 2014 in O.S.No.122 of 2013 on the file of the Principal District Judge, Puducherry, dated 29.01.2015.

2. The petitioner herein had filed a suit in O.S.No.122 of 2013 on the file of the Principal District Judge, Puducherry, against the respondent herein for recovery of Rs.15 lakhs with subsequent interest. During pendency of the said suit, he filed an application in I.A.No.2269 of 2014 under Order 11 Rule 14 r/w Section 151 of CPC, to direct the respondent herein/defendant to produce certain documents which are mentioned in the said application. The learned Principal District Judge, Puducherry, by the order dated 29.01.2015 had dismissed the said application. Feeling aggrieved, the petitioner/plaintiff has filed the present Civil Revision Petition.

3. Heard, Mr.T.Sezhian, the learned counsel for the petitioner/plaintiff and Mr.R.Marudhachalamurthy, the learned counsel for the respondent/defendant.

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4. The learned counsel for the petitioner has submitted that the petitioner herein had filed a suit in O.S.No.2269 of 2014 on the file of the Principal District Judge, Puducherry, against the respondent herein for recovery of Rs.15 lakhs with subsequent interest based on the

agreement dated 13.10.2010. He further submitted that in the said agreement, it is stated that within three months, the petitioner has to submit the original/copy of a final decree passed in O.S.No.184 of 1969, Court order in the litigation between Meenachi Achi and the plaintiff, judgment in the suit between Jawad Hussain and Uma Kulsam, Abdul Kadar and Viswanathan and also, the original sale deed registered as document No.2885/1985 in favour of the plaintiff's wife either to the defendant or his authorised person. He further submitted that the petitioner/plaintiff had handed over all those documents to the power agent of the defendant on 07.01.2011.

5. He further submitted that in order to prove that those documents were handed over by the petitioner to the power agent of the defendant, the petitioner had filed an application under Order 11 Rule 14 of CPC, to direct the respondent/defendant to produce the aforesaid documents but, the trial Court had erroneously dismissed the said petition by holding that the petitioner has not produced any materials to show that he handed over the said documents to the respondent. He further submitted that though the petitioner had categorically pleaded in his plaint that the aforesaid documents were handed over to the

respondent/defendant, the said fact has not been specifically denied by the respondent/defendant in the written statement and hence it has to be presumed that he received the said documents but, without considering the said fact, the trial Court had dismissed the said petition and therefore, he prayed to allow this Civil Revision Petition and set aside the order passed by the trial Court in I.A.No.2269 of 2014 and allow the said application.

6. Per contra, the learned counsel for the respondent/defendant has submitted that the respondent/defendant in his written statement has categorically denied the allegations made in the plaint that the plaintiff had handed over the aforesaid documents to the respondent/defendant. He further submitted that since the petitioner has not produced any materials before the trial Court to show that he handed over the said documents to the respondent, the trial Court has rightly dismissed the said application and in the said order, this Court need not interfere and therefore, he prayed to dismiss this Civil Revision Petition.

7. A perusal of the typed set of papers filed by the petitioner shows that the petitioner herein had filed a suit in O.S.No.122 of 2013 on

the file of the Principal District Judge, Puducherry, against the respondent herein for recovery of Rs.15 lakhs with subsequent interest. In the said suit, the petitioner herein has stated that an agreement was entered between the petitioner and the respondent's power agent on 13.10.2010 for the payment of Rs.15 lakhs to the petitioner provided the original/copy of a final decree passed in O.S.No.184 of 1969 Court order in the litigation between Meenachi Achi and the plaintiff, judgment in the suit between Jawad Hussain and Uma Kulsam, Abdul Kadar and Viswanathan and also, the original sale deed registered as document No.2885/1985 in favour of the plaintiff's wife either to the defendant or his authorized person. He further stated that on 07.01.2011, he handed over the said documents to the power agent of the respondent/defendant. The respondent/defendant in his written statement has denied the allegations that the petitioner/plaintiff handed over the aforesaid documents to him.

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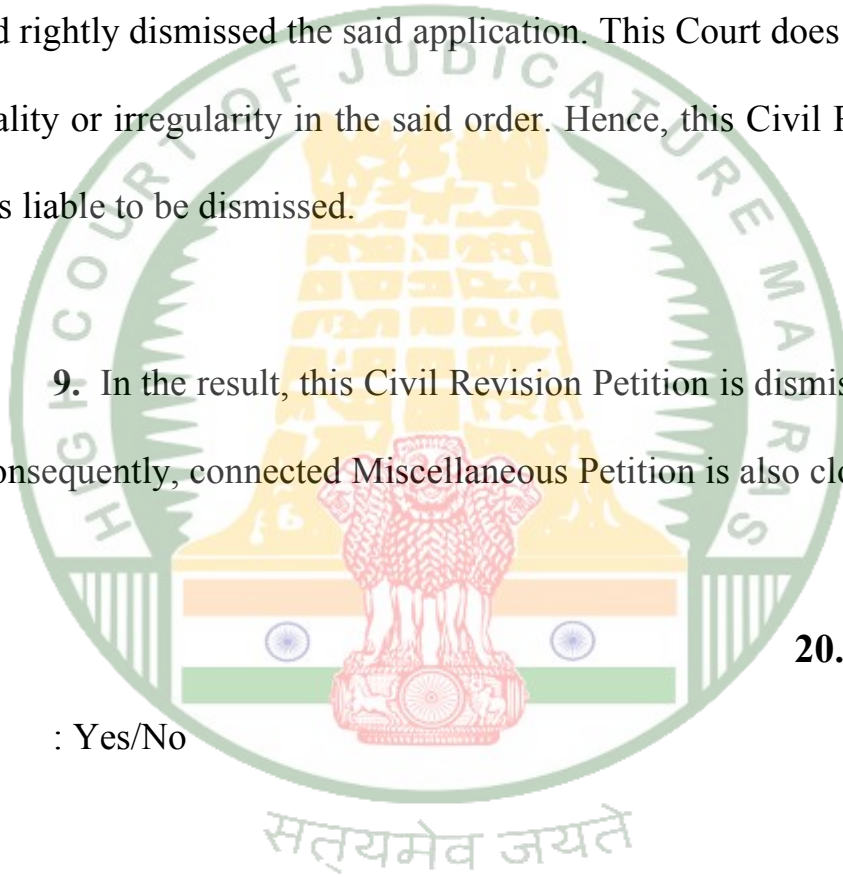
8. In the counter filed in I.A.No.2269 of 2014 also, the respondent/defendant has categorically denied the allegations that the aforesaid documents were handed over to him. Under the said circumstances, the petitioner/plaintiff has to establish that he handed

over the petition mentioned documents to the respondent and then only, the Court can direct the respondent to produce the said documents. In this case, the petitioner has not produced any materials to show that he handed over those documents to the respondent and therefore, the trial Court had rightly dismissed the said application. This Court does not find any illegality or irregularity in the said order. Hence, this Civil Revision Petition is liable to be dismissed.

9. In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is also closed.

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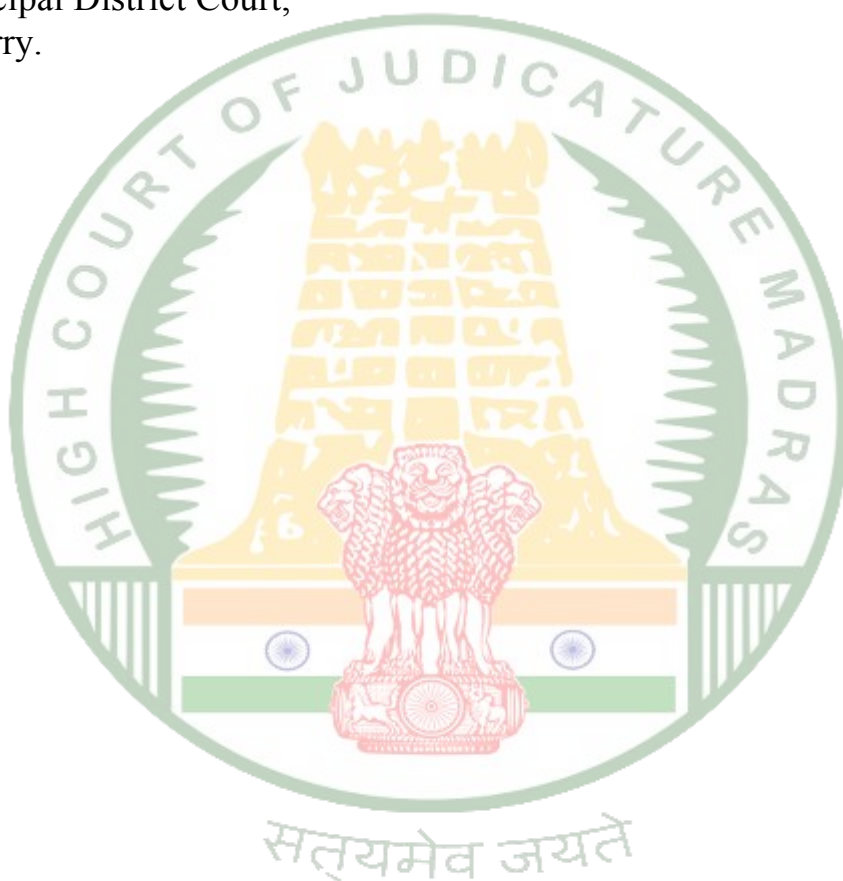
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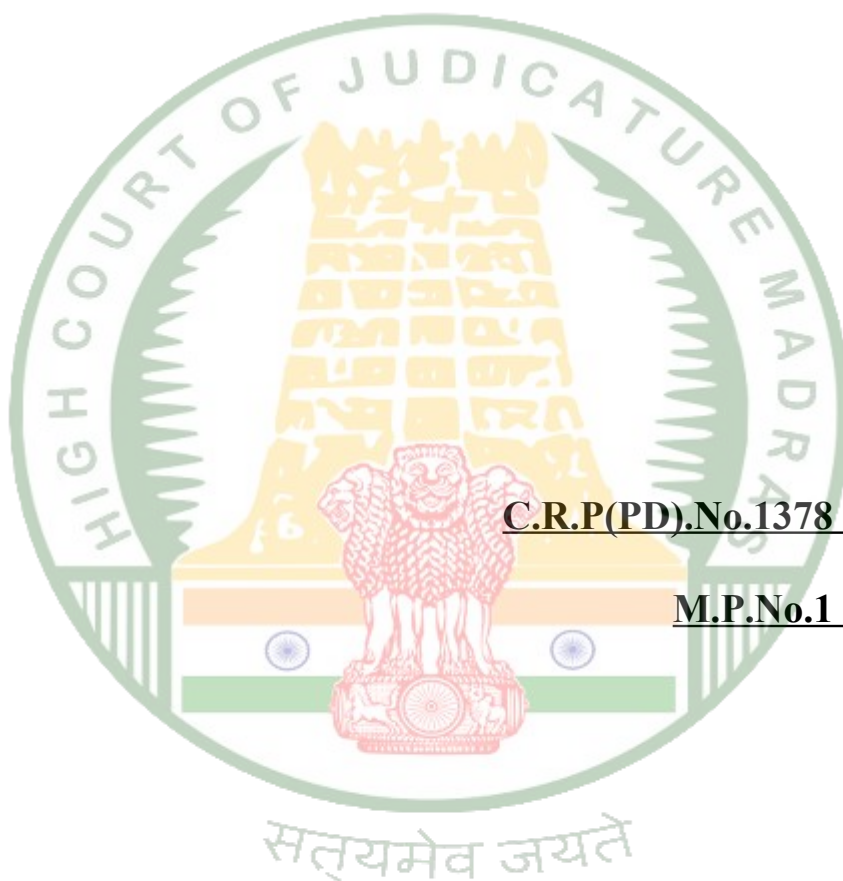
The Principal District Court,
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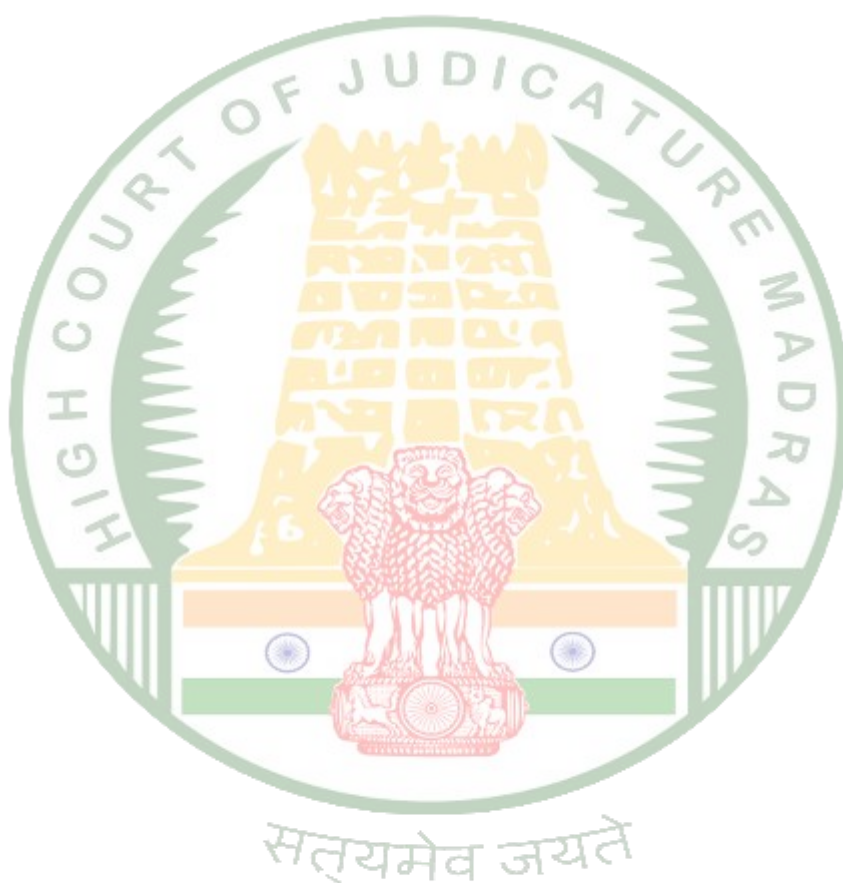
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