

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.03.2020

CORAM

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR

C.R.P.(NPD)No.989 of 2020
and C.M.P.No.5502 of 2020

1.Krishnan
2.Govindan

...

Petitioners

versus

Narayanasamy

...

Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order passed in Tr.O.P.No.213 of 2019 in O.S.No.87 of 2019, dated 22.01.2020 on the file of the Principal District Judge, Villupuram.

For Petitioner

Mr.N.Ramesh

ORDER

This Civil Revision Petition has been filed by the petitioner seeking to set aside the fair and decreetal order passed in Tr.O.P.No.213 of 2019 in O.S.No.87 of 2019, dated 22.01.2020 on the file of the Principal District Judge, Villupuram.

2.The petitioners/plaintiffs have filed a suit in O.S.No.479 of 2018 before the Subordinate Court, Kallkurichi as against one Anjalai and the Sub-Registrar, Villupuram District, the defendants therein for the relief of declaration of plaintiffs pre-emptive rights over the suit schedule “A” property and for consequential relief of possession of suit schedule “A” property upon depositing the amount equivalent to the market value of the suit schedule “A” property. During the pendency of the suit, the petitioners had filed an application in I.A.No.1240 of 2018 before the Sub Court, Kallakurichi, to implead the subsequent purchaser and the same was allowed by its order dated 21.06.2018. While so, the respondent herein had filed a suit in O.S.No.87 of 2019 before the District Munsif Court, Sankarapuram for the relief of bare injunction against the petitioners in the month of May 2019. The petitioners have filed two applications in I.A.No.995 of 2019 and I.A.No.1240 of 2018 in O.S.No.479 of 2018 to set aside the ex-parte order dated 21.06.2019 passed in I.A.No.1240 of 2018 and I.A.No.932 of 2018 and both the said applications were allowed by the Court below. At this stage, the petitioners have filed Tr.O.P.No.213 of 2019 before the Principal District Court, Villupuram, seeking to transfer the suit in O.S.No.87 of 2019 on the file of the District Munsif Court, Sankarapuram to the file of the Sub Court, Kallakurichi on

the ground that in both the suits, the parties and the relief sought for against the suit schedule mentioned properties are one and the same. The trial Court has dismissed the said Tr.O.P., hence, the petitioners have come forward with the present CRP.

3. Admittedly, the petitioners herein had filed a suit in O.S.No.479 of 2018 before the Sub Court, Kallakurichi as against one Anjalai and Sub Registrar of Vadaonparai, Villupuram for declaration of plaintiffs pre-emptive right over the suit schedule "A" property and the respondent herein had filed a suit in O.S.No.87 of 2019 before the District Munsif Court, Sankarapuram, for the relief of bare injunction.

4. On perusal of records, it is seen that the properties in both the suits are one and the same, but the plaintiffs in O.S.No.87 of 2019 is not a party in O.S.No.479 of 2018 and the reliefs sought for by the petitioners are different and parties to both the suits are also different, therefore, there is no necessity to conduct a joint trial. The trial Court has rightly observed the said fact and dismissed the Tr.O.P. Further, it is seen that mistake was on the part of the

petitioners, because they have not filed amended plaint copy along with Tr.O.P.No.213 of 2019 before the Principal District Court, Villipuram and the said copy was also not filed by the petitioners before this Court. Hence, considering the facts and circumstances of the case, this Court is of the opinion that there is no error in the order passed in Tr.O.P.No.213 of 2019 dated 22.01.2020 by the Court below and this Court cannot entertain the Civil Revision Petition.

5.Accordingly, the Civil Revision Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

06.03.2020

Speaking order / Non-speaking order

Index : Yes / No

Internet : Yes

msm

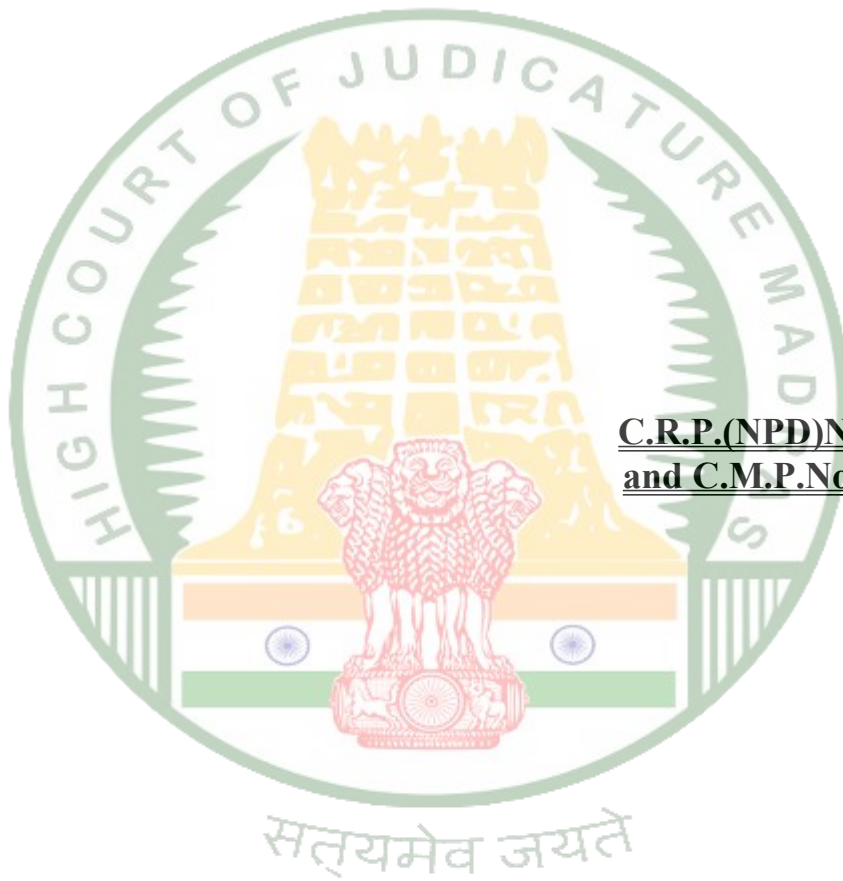
To

The Principal District Judge, Villupuram.

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D.KRISHNAKUMAR, J.

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