

IN THE HIGH COURT OF JUDICATURE AT MADRAS

[ORDERS RESERVED ON : 11.11.2020]

[ORDERS PRONOUNCED ON : 20.11.2020]

CORAM

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CRP (PD).No.1996 of 2020

and

C.M.P.No.12376 of 2020

A.Anbazhagan

... Petitioner

.. Vs ..

1.A.Valarmathy

2.A.Athithan

3.Vinoth kumar

4.A.Naveen kumar

... Respondents

PRAYER: Petition filed under Section 227 of Constitution of India, praying against the fair and decree in I.A.No.373 of 2019 in O.S.No.218 of 2012 dated 05.09.2020 on the file of the District Munsif, Harur.

For Petitioner : Mr.V.Vijayakumar

ORDER

This Revision Petition has been filed under Article 227 of the Constitution of India, challenging the order of the rejection made in I.A.No.373 of 2019.

2. The defendant is the petitioner herein.

3. The first respondent herein filed O.S.No.218 of 2012 against the parties for relief of declaration of easementary rights in respect of the suit property.

4. Pending suit, there was an amendment. The revision petitioner who is the defendant in the suit filed written statement. He also filed I.A.No.373 of 2019 to implead the respondents 2, 3, 4 herein as a proposed defendants in the suit. The said application was dismissed and hence, this Civil Revision Petition.

5. Heard the learned counsel for the petitioner.

6. I.A.No.373 of 2019 has been filed under Order 1 Rule 10 read with 151 of C.P.C to add the proposed party as party defendant in the suit on the ground that they are the sons of the plaintiff and are in enjoyment of the S.Nos.351/2A2, 352/1A and 351/2A1 and the connected Survey Number as per Exhibit P12 and also Exhibit P13-Settlement and hence,

the suit is for the declaration of title in respect of easementary rights over these Survey Numbers. The proposed parties are necessary parties to the suit.

7. In support of the same, during the enquiry, the revision petitioner/defendant filed Exhibits P1 to P14. Per contra, the respondent/plaintiff has filed Exhibits R1 to R12.

8. On perusal of Exhibits P12 and P13, Ex.P12 is the Will. The will is genuine, true and genuine is subject matter of the trial and in respect of Exhibit P13 the alleged Settlement Deed in favour of the proposed parties, the trial Court has observed that the suit S.No.350/1b which has no connection with Exhibit P3 and after going through the recital in Exhibits P12 and P13, the trial Court has come to the conclusion that in respect of the suit S.No.350/1b and S.No.351/2A2, the petitioner has not adduced any document to show the proposed parties have any right or title over the suit property.

9. It is to be stated that the scope and ambit of Order 1 Rule 10 of C.P.C has been elaborately dealt and test applied for determining, the rights of a party to implead another in a pending suit or other proceeding, crystallised into the following categories.

i) If without his presence no effective and complete adjudication could be made;

ii) If his presence is necessary for a complete and effectual of the dispute though no relief is claimed against him;

iii) If there is a cause of action against him;

iv) If the relief sought in the suit or other proceeding is likely to be made binding on him;

v) If the ultimate outcome of the proceeding is likely affect him adversely;

vi) If his role really that of a necessary witness but is sought to be camouflaged as a necessary party.

10. The learned counsel for the petitioner contended that the impugned order has not considered the scope of the Order 1 Rule 10 (2) of C.P.C which is extracted above.

11. In view of the factual position as stated supra and the finding rendered by the trial Court that as the petitioner failed to prove the interest or the necessity for arraying the proposed parties as a party defendant in the suit does not suffer from any illegality or irregularity warranting interference by exercising this jurisdiction.

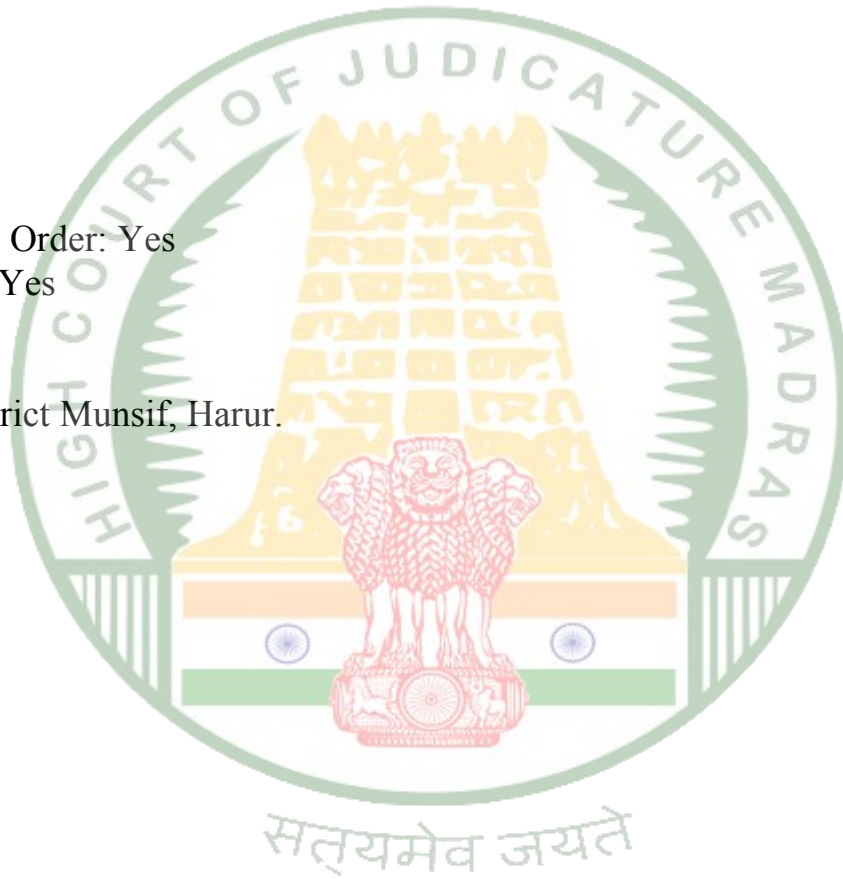
12. With these observations, this Civil Revision Petition is dismissed. No costs. Consequently, connected C.M.P is closed.

20.11.2020

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Speaking Order: Yes
Internet: Yes

To
The District Munsif, Harur.

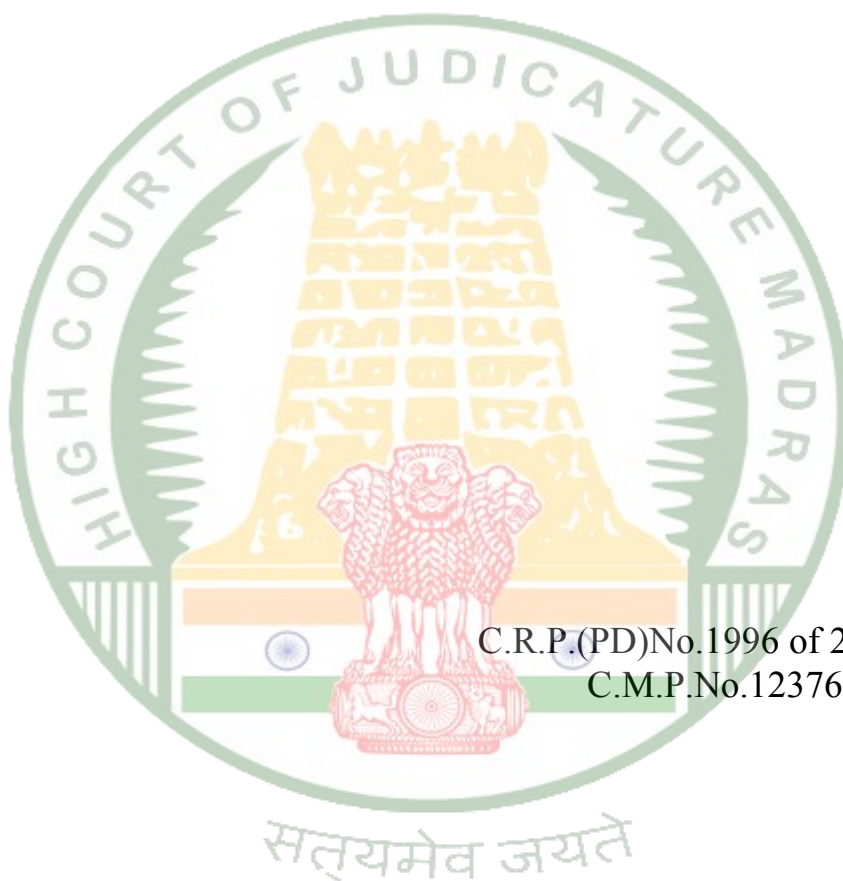


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CRP(PD).No.1996 of 2020

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nvi



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20.11.2020