

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.01.2020

CORAM:

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

C.R.P.(PD) No.4675 of 2017
and
C.M.P.No.22006 of 2017

Malliga @ Janaki

... Petitioner

Vs.

1. Munisamy @ Kannan

2. Konama @ Jayalakshmi

3. Dhanalakshmi

4. Shanmugam

... Respondents

PRAYER : Civil Revision Petition filed under article 227 of Constitution of India praying to set aside the fair and decretal order dated 20.10.2017 made in I.A.No.486 of 2017 in O.S.No.71 of 2010 passed by the Principal Subordinate Judge at Puducherry.

For Petitioners

: Mr. M. Gnanasekar

For respondent : Mr. S.Subramanian

ORDER

This Civil Revision has been filed against the order dismissing the petitioner's application filed under Order 1 Rule 10(2) CPC to implead the respondents 3 and 4, who are the sister and brother of the petitioner, as party defendants in the suit.

2. The petitioner/plaintiff has filed a suit in O.S.No.71 of 2010 on the file of the Principal Sub-Court, Puducherry for declaration to declare that, a Consent deed dated 28.03.2007 executed by the plaintiff in favour of the first defendant, who is her younger brother as null and void. In the above suit, the petitioner/plaintiff filed an application in I.A.No.486 of 2017 to implead brother and sister of the petitioner and the same came to be dismissed on 20.10.2017. Now, challenging the same, the present revision has been filed.

3. Heard both sides and perused the materials available on records carefully.

4. The petitioner herein filed the suit only for declaration of the consent deed executed in favour of the first defendant, who is the younger brother of the plaintiff, as null and void and it is for the petitioner to prove that the consent deed executed by her brother is not valid in the eye of law and for that another brother and sister of the petitioner are not a necessary party in the suit. Now, the petitioner alleged that there is a family partition on 12.10.1988 and if she has any grievance over the above partition, she has to work out her remedies in the manner known to law, since it is a suit for declaration only with regard to the Consent Deed executed in favour of the first defendant, who is her younger brother, in which the proposed parties need not be impleaded. That apart, the application has been filed after trial has been over and the suit is posted for arguments. The trial Court after considering all these facts

dismissed the application stating that the application has been filed only in order to drag on the proceedings. Hence, I find no illegality or irregularity in the order passed by trial Court and I find no merit in the revision.

5. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed. However, considering the fact that since the suit is pending from the year 2010, the trial Court is directed to proceed with the suit and dispose the same within a period of two (2) months from the date of receipt of a copy of this order.

13.01.2020

Index:Yes/No
Internet:Yes
Speaking/Non-speaking order
mrp

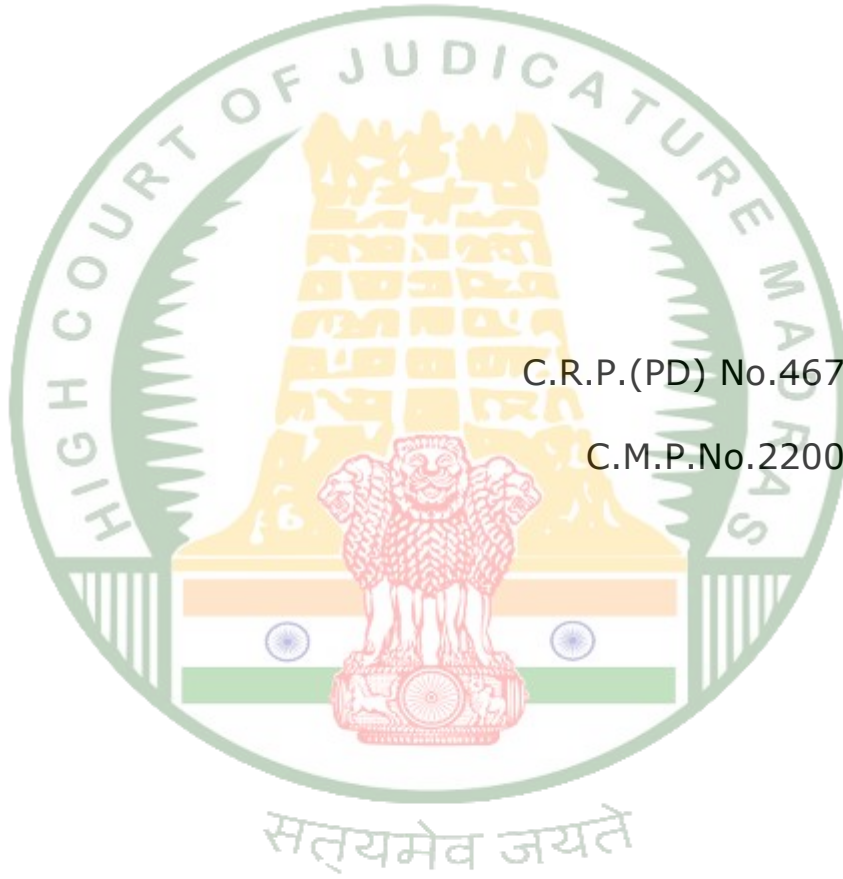
To
The Principal Subordinate Judge,
Puducherry.

WEB COPY

C.R.P.(PD) No.4675 of 2017

V.BHARATHIDASAN, J

mrp



C.R.P.(PD) No.4675 of 2017
and
C.M.P.No.22006 of 2017

WEB COPY **13.01.2020**

5/5