

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2020

C O R A M

THE HON'BLE MR. JUSTICE S.VAIDYANATHAN

C.R.P.(PD).No.532 of 2017
and C.M.P.No.2737 of 2017

1.Indhirani

2.Manjula

3.Sivakumar

4.K.Kalavathy

...Petitioners

Vs

1.Sathya

2.Arumugam

3.The President,
Kuppam Village Panchayat,
Kuppam, Kanai,
Villupuram T.K.

... Respondents

Civil Revision Petition filed under Section 227 of the Constitution of India, against the judgment and decree dated 21.12.2016 in I.A.No.1173 of 2015 in O.S.No.107 of 2012 on the file of the Principal District Munsif Court at Villupuram.

For Petitioners : Mr.K.L.Elangovan
for Achari and Antoni Associates

ORDER

This Civil Revision Petition has been filed challenging the judgment and decree dated 21.12.2016 passed in I.A.No.1173 of 2015 in O.S.No.107 of 2012 on the file of the Principal District Munsif Court at Villupuram.

2. The suit has been filed for recovery of possession and declaration. It is the case of the Petitioners that, Respondents 1 and 2 herein have encroached their property and hence, they filed I.A.No.1173 of 2015 to appoint an Advocate Commissioner to measure the encroachment. The Court below rejected the aforesaid Application on the ground that, it has been filed after four years of filing of the plaint and that, no proper reasons were assigned for filing the Application belatedly.

3. Learned counsel for the Petitioners submitted that, the 2nd respondent is no more and he died intestate and that the name of the 1st Respondent/Sathya is printed in the causelist. He further submitted that, as on date, there is no President for the 3rd Respondent/Village Panchayat. It is the contention of the learned counsel for the Petitioners that, there is no time limit prescribed for filing an Application.

4. Heard the learned counsel for the Petitioners.

5. Petitioners herein ought to have filed the said Application immediately on knowing about the encroachment, or, it could have been filed along with the Plaint. But the Application has been filed belatedly, after four years from the filing of the Plaint, and no proper reasons have been assigned for the delay.

6. The Court below, in paragraph 7 of the order dated 21.12.2016 passed in the Application, has rightly held that, no reason has been assigned for filing the Application belatedly, and, as to when the encroachment was made by the Respondents herein. Hence, there is no justification to interfere with the order passed by the Court below.

7. In view of the above, **this Civil Revision Petition stands dismissed.** No costs. Consequently, connected Civil Miscellaneous Petition is closed.

10.03.2020

Index : Yes/No

Speaking order : Yes/No

(rst)

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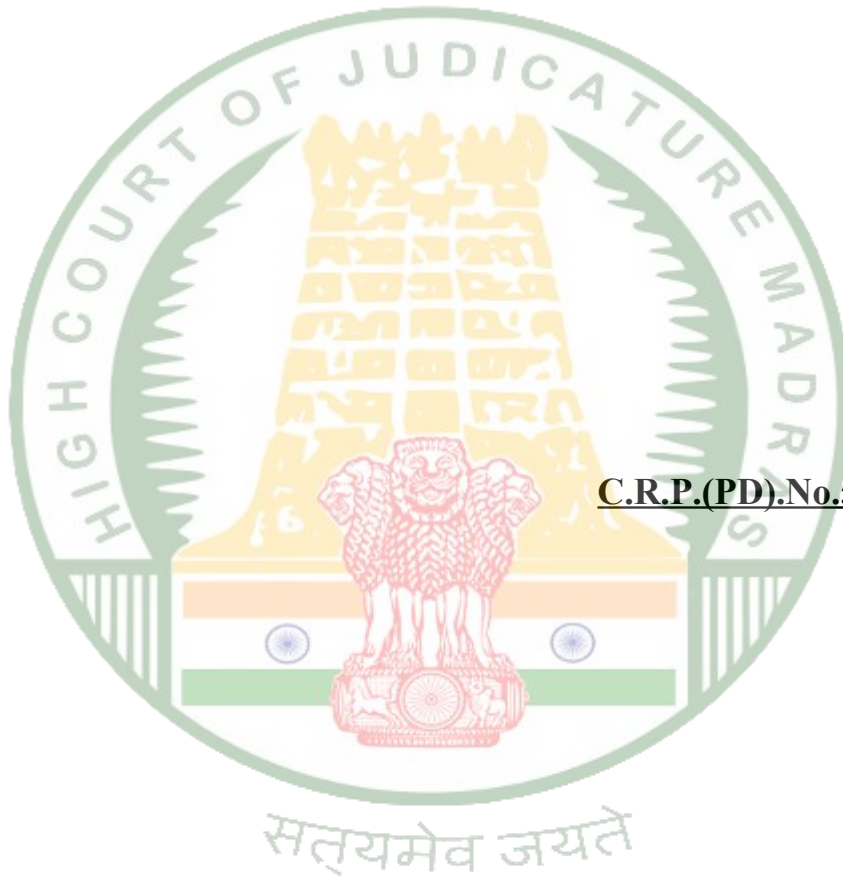
The Principal District Munsif, Villupuram.

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S.VAIDYANATHAN,J.

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