

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.01.2020

CORAM:

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

C.R.P(PD).No.4240 of 2019
and
C.M.P.No.27654 of 2019

Sriram

... Petitioner

Vs.

1. Nurselvi

2. Mohamed Hameed

3. Krishnamurthy

4. Jaiganesh

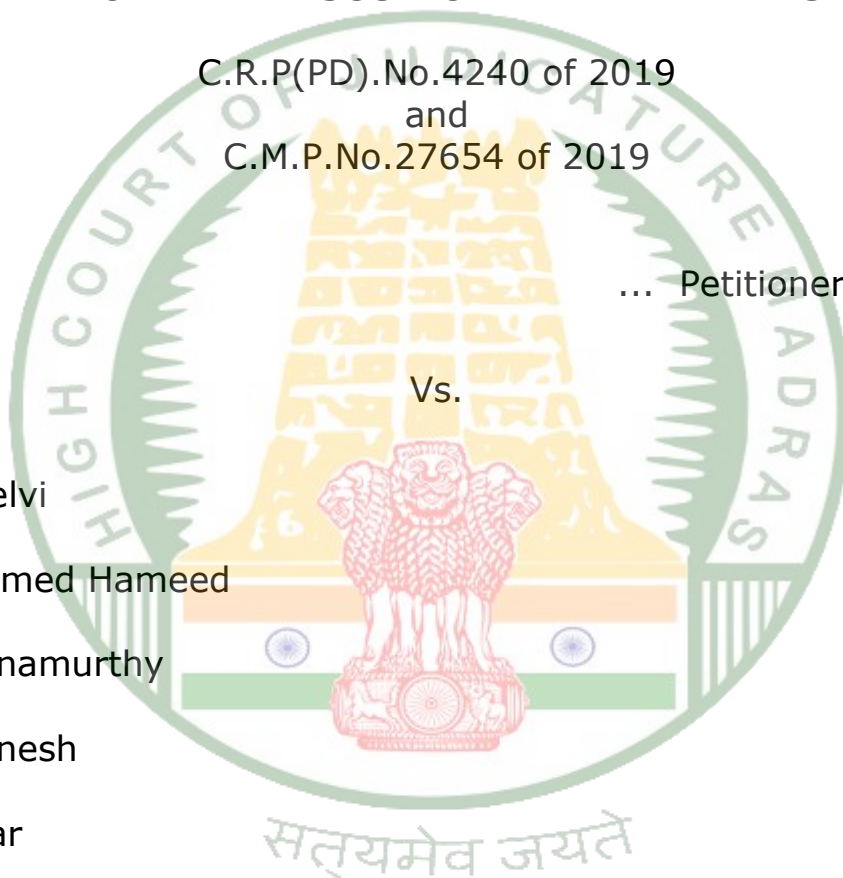
5. Kumar

6. Rajinish Kumar Rai

7. Mathiazhagan

8. Baskar

... Respondents



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PRAYER : Civil Revision Petition filed under article 227 of Constitution of India praying to set aside the order and decretal order dated 13.09.2019 made in I.A.No.690 of 2018 in O.S.No.1554 of 2017, on the file of I Additional District Munsif, Pondicherry, by allowing the present Civil Revision Petition.

For Petitioner : Mr. A. Gouthaman

For respondents : M/s. Babu Rangasamy Associates

ORDER

The Civil Revision Petition has been filed challenging the order dismissing the petitioner's application to implead himself as party defendant in the suit.

2. The first respondent/plaintiff, filed a suit in O.S.No.1549 of 2013 on the file of the II Additional District Munsif Court, Puducherry for permanent injunction restraining the respondents 2 to 8 herein . The suit has been filed on the ground

that she has purchased the suit schedule property from one Mir Sultan Mohidine, and Saadatunisha Begam, by means of a registered sale deed on 16.06.2017, and the defendants were trying to interfere with the plaintiff's possession in suit property. Hence, she filed the suit.

3. In the above suit, the petitioner herein has filed an application to implead himself as a party defendant in the suit. According to him, in the year 2007, the original owner of the suit property, namely, Sultan Mohidine executed a power of Attorney in the name of Mohamed Hameed, second respondent herein. The second respondent by means of valid power of attorney has executed a lease deed in favour of the petitioner on 27.12.2012 and also handed over the possession to him, right from the date of the lease deed, the petitioner is in possession and enjoyment of the property as a cultivating tenant. Hence, he is also proper and necessary party in the suit. The trial Court by an order dated 13.09.2019 dismissed the application. Now challenging the same, the present revision has been filed.

4. The learned counsel for the petitioner would vehemently contend that by virtue of the lease deed executed by the Power of attorney holder, the petitioner has been in possession and enjoyment of the suit property as a cultivating tenant from the year 2012. Now, without impleading him, the suit has been filed. If the suit is disposed without impleading the petitioner, the petitioner's right will be affected. Hence, he is just and necessary party in the suit.

5. Per contra, the learned counsel for the respondent would contend that, the power of attorney said to have been executed in favour of one Mohamed Hameed is a false one, as per order passed by this Court in W.P.No.26058 of 2013, dated 13.02.2014, and that order has become final. Hence, the Power of Attorney deed itself is a forged one and the petitioner cannot claim any right based on the lease deed executed by the Power of Attorney. The learned counsel for the respondent has also produced a copy of the order passed in the above writ petition.

6. On a perusal of the order passed in the writ petition, it could be seen that this Court has already held that the Power of Attorney is a false one, and the Principal only stated to be in possession of the properties in and around Pondicherry including a large extent of land adjacent to Raj Bhavan, Pondicherry, and directed the Registrar General to keep the original Power of Attorney in the custody. The relevant portion of the order reads as follows :

" 19. Thiru T.P.Manoharan, Advocate, pursuant to the direction of this Court produced the power of attorney in original. The Power of Attorney has already been found to be a false one. The principal is stated to be in possession of several valuable properties, in and around Pondicherry including a large extent of land adjacent to Raj Bhavan, Pondicherry. "

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7. The learned counsel for the petitioner is not in a position to dispute the same.

8. Considering the fact that the very Power of Attorney said to have been executed in favour of Mr. Sultan Mohideen is found to be a forged one, the petitioner cannot claim any right as lessee based on the lease deed said to have been executed by the Power of Attorney. In the above circumstances, the petitioner cannot be impleaded as party defendant in the above suit. The trial Court, rightly dismissed the application. Hence, I find no illegality or irregularity in the order passed by the trial Court and I find no merit in the revision.

9. Accordingly the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

22.01.2020

Index:Yes/No

Internet:Yes

Speaking/Non-speaking order

mrp

To

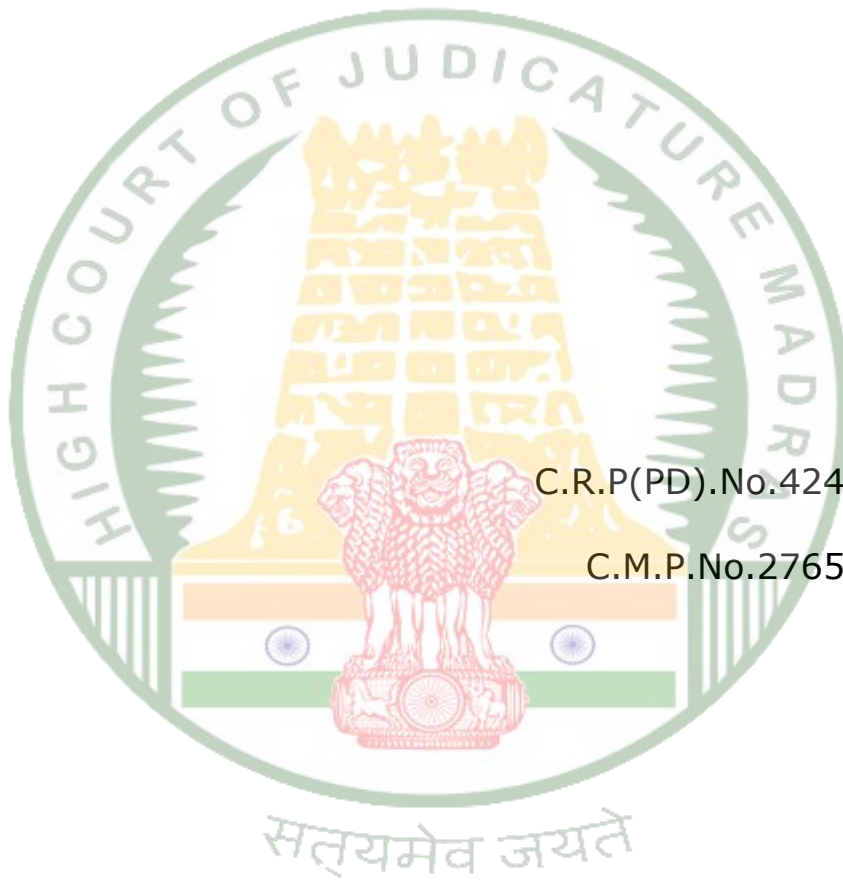
The I Additional District Munsif, Puducherry.

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V.BHARATHIDASAN, J

mrp



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