

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.03.2020

CORAM

THE HON'BLE MR.JUSTICE D. KRISHNAKUMAR

C.R.P. No.4170 of 2019
and C.M.P.No.27160 of 2019

Muthu ... Petitioner/Proposed Party

Vs.

1. Palaniammal
2. Muthu Goundar
3. Kandasamy ... Respondents 1 to 3/Defendants
Perumayee (died)
4. Pavayee
5. Natarajan ... Respondents 4 & 5/Plaintiffs

Prayer: The Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decretal order dated 13.11.2019 in I.A.No.209 of 2018 in I.A.No.985 of 2012 in O.S.No.392 of 1996 on the file of the District Munsif Court, Sankagiri

For Petitioner : Mr.T.Saikrishnan
For Respondents 1 to 3 : Mr.N.S.Sunganathan for
Mr.N.Manokaran
For Respondents 4 & 5 : No appearance

ORDER

The revision petitioner has filed an application in I.A.No.209 of 2018 in I.A.No.985 of 2012 in the aforesaid suit before the Court below to

receive the additional affidavit filed by the petitioner. According to the petitioner, the respondents 4 and 5 are the vendors of the petitioner have already filed an application in I.A.No.985 of 2012 to condone the delay of 1031 days in filing the petition to restore the suit and the said application is still pending before the Court below. The petitioner was impleaded as party in I.A.No.985 of 2012. To safeguard the interest of the petitioner, the instant application has been filed before the Court below to receive the additional affidavit filed by the petitioner and no prejudice will be caused to the respondents in allowing the present application filed by the petitioner.

2. The learned counsel appearing for the respondent objected by stating that the contention of the petitioner is incorrect. The respondents 3 and 4 have already filed an application in I.A.No.985 of 2012 wherein the petitioner has been shown as plaintiff in the suit. Therefore, the application was rightly rejected by the Court below and therefore, the Civil revision is not maintainable.

3. Heard the learned counsel appearing for the petitioner, learned counsel appearing for the respondents/defendants and perused the materials available on record.

4. The petitioner has filed an application in I.A.No.209 of 2018 to receive the additional affidavit filed by the petitioner in I.A.No.985 of 2012

which was filed by the respondents 3 and 4 to condone the delay in filing the petition to restore the suit.

5. As rightly pointed out by the counsel appearing for the respondent, the Court below dismissed the said application on the ground that the petitioner was impleaded as party/petitioner in I.A.No.985 of 2012. The petitioner was not impleaded as plaintiff in the aforesaid suit. Therefore, the petitioner cannot be represented as plaintiff in the said suit, unless there is an order passed by the Court below, by impleading the petitioner as plaintiff in the suit. Further, based on the submissions of the parties, the vendors of the petitioner have already filed an application to condone the delay of 1031 days in filing the petition to restore the suit and the said application is still pending before the trial Court. Therefore, the petitioner being the purchaser, stepping into the shoes of the vendors and the respondents 4 and 5 have already prosecuting the aforesaid application which is still pending before the trial Court. Therefore, there is no ground to interfere with the order passed by the Court below.

6. In the result, the Civil revision petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

05.03.2020

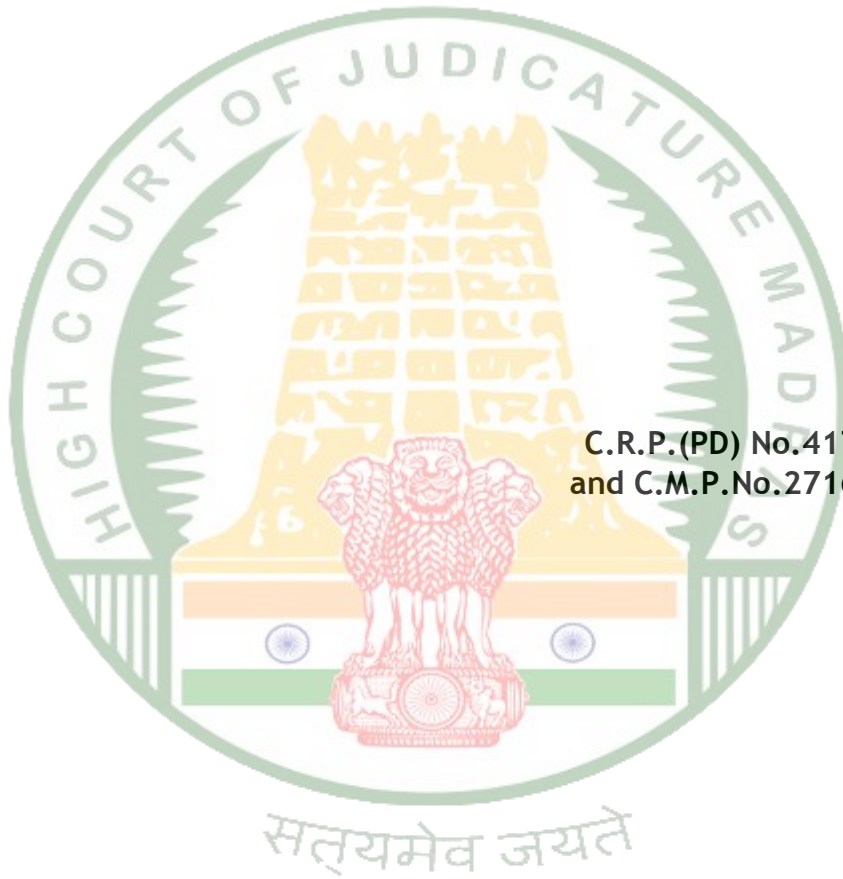
Speaking/Non Speaking order
Index: Yes/No
vaan

C.R.P.(PD) No.4170 of 2019

D.KRISHNAKUMAR.J,

vaan

To
The District Munsif Court, Sankagiri



**C.R.P. (PD) No.4170 of 2019
and C.M.P.No.27160 of 2019**

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