

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.10.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P(PD).No. 3122 of 2018

and

C.M.P.No. 17967 of 2018

Susila

...Petitioner

Vs.

1.Muthu Gounder
2.Kuppusamy
3.Periyammal @ Ramayee Ammal
4.Chandran
5.Nivash
6.Jayalakshmi
7.Ramajayam
8.Gowri

..Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 29.11.2017 made in I.A.No.328 of 2017 in O.S.No.82 of 2006 on the file of the Sub-Court, Attur.

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For Petitioner : Mr.S.Kaithamalai Kumaran

For Respondents : Mr.L.Mouli

ORDER

This civil revision petition is by the first plaintiff in O.S.No. 82 of 2006. Challenge in this revision is to the order made in I.A.No. 328 of 2017, an application for amendment of the plaint to include reliefs of declaration regarding certain documents, which are executed by the defendants among themselves are invalid.

2. The petitioner along with her daughter sued for partition and separate possession of their 2/12th share. Even in the plaint, reference was made to certain transfer documents executed by the defendants and it was contended those documents will not bind on the plaintiffs, since they are not parties to those documents. The suit was instituted in the year 2006, after nearly 11 years of contest in 2017, after the evidence had commenced, the plaintiffs came up with the application for amendment seeking various declarations that the documents that were executed by the defendants are null and void and not binding on them. This application was resisted by the defendants contending that it was belated. The Trial Court accepted the

defence and dismissed the application.

3. Heard Mr.S.Kaithamalai Kumaran, learned counsel for the petitioner and Mr.L.Mouli, learned counsel for the respondents.

4. It appears that the second plaintiff who had her daughter of the first plaintiff has also deserted her now. She is shown as the 8th respondent in the revision. Mr.S.Kaithamalai Kumaran would contend that the Trial Court was not right in dismissing the application as belated. He would submit that the amendment itself was sought for only by way of abundant caution. I am unable to accept the submissions of the learned counsel for the petitioner as the application is highly belated. The suit is of the year 2006 and the written statement was filed by the defendants in 2007. The application for amendment came to be filed in 2017. The original plaint refers to some of the documents that have been executed by the defendants and it is pleaded that those documents are not binding on the plaintiffs. This being the case, I do not see any necessity for prayer for declaration, which is sought to be included by way of the proposed amendment. A sharer is

entitled to ignore the documents to which he or she is not a party.

5. Therefore, I do not see any necessity for amendment of the plaint. The only achievement of this application is that it has resulted in the suit being kept pending in the Trial Court for another three years thereby completing 14 years of its existence. Hence, I do not see any ground to interfere with the order of the Trial Court. This civil revision petition fails and it is accordingly dismissed. Consequently, connected miscellaneous petition is closed. No costs.

05.10.2020

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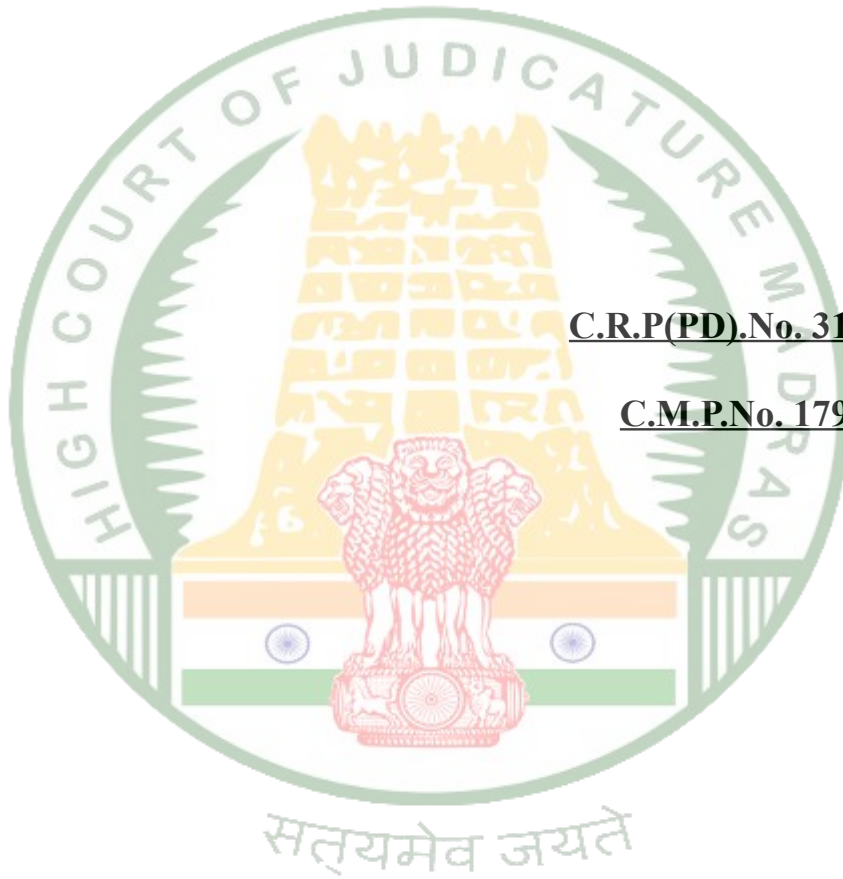
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R.SUBRAMANIAN, J.

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