

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.02.2020

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

C.R.P. PDs 3048 & 3050 of 2018
and
C.M.P. 17691 of 2018

Ramanathan (died)

1. R. Kanthamani Ammal
2. R.Vijayalakshmi

R.Prasana Devi (died)

3. R.Umadevi
4. K.R.Srinivasan
5. J.Ramesh
6. R.Niranjan
7. R.Dinesh

... Petitioners
in both C.R.P.s

Versus

1. N.Chennammal
2. N.Mohan Kumar
3. N.Senthil Kumar
4. S.Dhanalakshmi
5. K.Sampath

... Respondents
in both C.R.P.s

PRAYER in C.R.P.PD 3048 of 2018 : Civil Revision Petition
is filed under Art. 227 of Constitution of India, praying to set

aside the impugned order passed in I.A. 418 of 2017 in O.S. 250 of 2008 dated 21.06.2018 on the file of Addl. District Munsif Court, Chengam.

PRAYER in C.R.P.PD 3050 of 2018 : Civil Revision Petition is filed under Art. 227 of Constitution of India, praying to set aside the impugned order passed in I.A. 419 of 2017 in O.S. 250 of 2008 dated 21.06.2018 on the file of Addl. District Munsif Court, Chengam.

For Petitioners : Mr.S.Udayakumar

For Respondents : Mr.P.Kannan for R5

ORDER

These Civil Revision Petitions have been filed against the order dismissing the petitioners' applications to reopen the plaintiffs side evidence and to mark the Patta in the suit.

2. The petitioners are Plaintiffs in the Suit. The suit has been filed for declaration to declare the title over the suit schedule property, and also for consequential injunction. The suit has been filed on the ground that, the suit property was

allotted to the share of one Ramanathan in a oral partition, and based on that, the suit has been filed for declaration. In the above suit, evidence was over, and the suit was posted for arguments on 23.06.2017. At this stage, the present application has been filed to reopen the plaintiffs side evidence and to mark patta as an evidence. Those applications came to be dismissed by the court below. Challenging the same, the present Civil Revision Petitions have been filed.

3. Mr. S.Udayakumar, learned counsel appearing for petitioners would contend that, the Patta is a document to prove the status of plaintiffs. At the time of filing Suit, that document was not available to the petitioners. Hence, the petitioners have decided to mark that document now. That apart, they wanted to examine 2nd plaintiff as P.W.4, and proof affidavit was also filed. However, the suit was posted for arguments. Hence, an opportunity should be given to the petitioners to mark the above said document.

4. Mr.P.Kannan, learned counsel appearing for 5th respondent would submit that, already the plaintiffs side evidence was closed, and the suit was posted for arguments. At

this stage, only to drag on the proceedings, the present applications have been filed. According to the learned counsel, the document is now sought to be marked is not at all relevant to the Suit. Since the petitioners are claiming right under oral partition, it is for them to prove the same through both oral and documentary evidence, and they cannot establish their title by way of filing patta, which is not relevant to the suit.

5. I have considered the submissions made by the learned counsel appearing for petitioners as well as learned counsel appearing for 5th respondent and perused the records carefully.

6. On perusal of records, it is seen that, the suit has been filed seeking for declaration to declare the title based on oral partition. Now the trial was over, and the suit was posted for arguments. At this stage, the present applications have been filed to reopen the plaintiffs side evidence, and to mark Patta. It is a title suit filed based on a oral partition, and it is for the plaintiff to prove same by acceptable evidence, Patta is not a document of title. That apart, after completion of trial, and the suit posted for arguments, the present application was filed only to drag on the proceedings. The Trial Court, after considering

the entire materials has dismissed the applications. I find no illegality or irregularity in the orders passed by the court below, and I find no merit in these Civil Revision Petitions. Hence, these Civil Revision Petitions are liable to be dismissed.

7. Considering the fact that, the suit is pending from the year 2008, the Trial Court is directed to proceed with the trial and dispose of the Suit within a period of six months from the date of receipt of the copy of this order.

8. With the above direction, the present Civil Revision Petitions are dismissed. No costs. Consequently, the Civil Miscellaneous Petition is closed.

07.02.2020

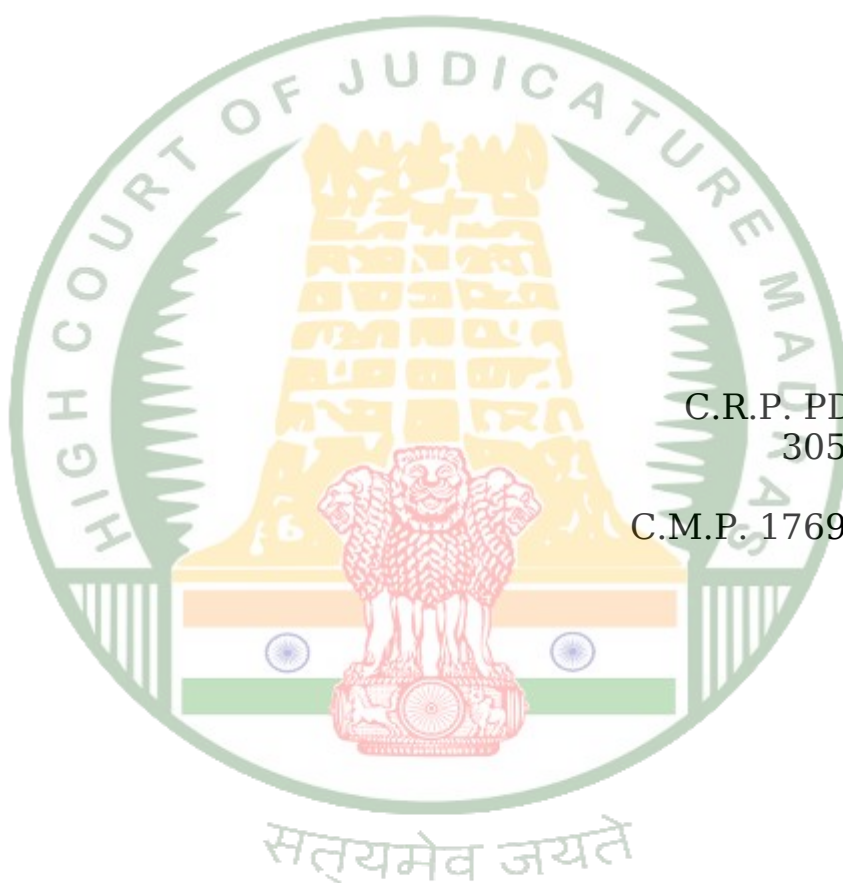
Index : Yes/No
Internet: Yes/No
Speaking/Non Speaking order
rpp

To

Addl. District Munsif,
Chengam.

V.BHARATHIDASAN,J.

rpp



C.R.P. PDs 3048 &
3050 of 2018
and
C.M.P. 17691 of 2018

WEB COPY

07.02.2020