

*C.R.P.(PD)Nos.3129, 3130 of 2015
and 2146 & 2147 of 2016*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2021

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

C.R.P.(PD) Nos.3129, 3130 of 2015
2146 & 2147 of 2016 and M.P.No.1 of 2015

S.Ganesan (died)
1. G.Devaraj
2. G.Appavu Singaram
3. G.Suresh
4. G.Arun
5. Chandira

... Petitioners
in all CRPs

Vs.

1. S.Jeevanandham
2. Venkatalachumi
3. Venkatammal
4. S.Babu
5. S.Manjunath
6. S.Amudhavalli

... Respondents
in all CRPs

Prayer in C.R.P.No.3129 of 2015 :- Civil Revision Petition is filed under Article 227 of the Constitution of India to set a side the fair and decreetal order dated 09.06.2015 in I.A.No.16 of 2015 in O.S.No.94 of 2008 on the file of the learned Additional District Judge at Krishnagiri.

Prayer in C.R.P.No.3130 of 2015 :- Civil Revision Petition is filed under Article 227 of the Constitution of India to set a side the fair and decreetal order dated 09.06.2015 in I.A.No.17 of 2015 in O.S.No.94 of 2008 on the file of the learned Additional District Judge at Krishnagiri.

Prayer in C.R.P.No.2146 of 2016 :- Civil Revision Petition is filed under Article 227 of the Constitution of India to set a side the fair and decreetal order dated 18.09.2014 in I.A.No.218 of 2013 in O.S.No.94 of 2008 on the file of the learned Additional District Judge at Krishnagiri.

Prayer in C.R.P.No.2147 of 2016 :- Civil Revision Petition is filed under Article 227 of the Constitution of India to set a side the fair and decreetal order dated 09.02.2015 in I.A.No.28 of 2014 in O.S.No.94 of 2008 on the file of the learned Additional District Judge at Krishnagiri.

For Petitioners
in all CRPs. : Mr.K.Sasindran

For Respondents
in all CRPs : No appearance

ORDER

The Civil Revision Petition in C.R.P.No.2146 of 2016 is arising out of the fair and decreetal order dated 18.09.2014 passed by the learned Additional District Judge at Krishnagiri in I.A.No.218 of 2013 in

O.S.No.94 of 2008, thereby allowing the petition filed by the respondents/ plaintiffs to condone the delay of 179 days in filing the petition to restore the suit.

2. The Civil Revision Petition in C.R.P.No.2147 of 2016 is arising out of the fair and decreetal order dated 09.02.2015 passed by the learned Additional District Judge at Krishnagiri in I.A.No.28 of 2014 in O.S.No.94 of 2008, thereby allowing the petition filed by the respondents/ plaintiffs to restore the suit which was dismissed for default.

3. The Civil Revision Petitions in C.R.P.Nos.3129 & 3130 of 2015 are arising out of the fair and decreetal orders dated 09.06.2015 passed by the learned Additional District Judge, Krishnagiri in I.A.Nos.16 & 17 of 2015 in O.S.No.94 of 2008 respectively, thereby allowing the petitions filed by the respondents/plaintiffs to recall and re-open the plaintiffs' side evidence.

4. The petitioners in all the revision petition are the defendants in the suit filed by the respondents for partition. After closing their respective evidences, the suit was posted for arguments. At that time arguments, the learned counsel appearing for the plaintiffs/respondents was not present. Even then, the trial Court dismissed the suit in O.S.No.94 of 2008 on merits. Aggrieved over the dismissal order, the plaintiffs/respondents filed petitions in I.A.No.218 of 2013 and I.A.No.28 of 2014 to condone the delay in filing the restoration petition and to restore the suit respectively. Both the petitions were allowed by the trial Court by imposing cost and on specific condition that the plaintiffs/respondents shall make arrangement for arguing the case through their counsel, failing which the order shall stand cancelled automatically. Aggrieved against the above orders the defendants/petitioners filed the revision petitions in C.R.P.Nos. 2146 & 2147 of 2016 respectively.

5. It is also seen that though the above conditions imposed in I.A.No.218 of 2013 and I.A.No.28 of 2014 were complied with, when the matter was posted for arguments, again the plaintiffs/respondents filed

another two petitions in I.A.Nos.16 & 17 of 2015 seeking permission to examine other witnesses in support of their case. Both the petitions were also allowed by the orders dated 09.06.2015. Aggrieved over the above orders, the defendants/petitioners preferred the Civil Revision Petitions in C.R.P.Nos. 3129 & 3130 of 2015.

6. Insofar as the revision petitions in C.R.P.Nos. 2146 & 2147 of 2016 are concerned, this Court finds no infirmity or illegality in the order passed by the Court below. Therefore, both the Civil Revision Petitions in C.R.P.Nos. 2146 & 2147 of 2016 are dismissed.

7. In respect of the revision petitions in C.R.P.Nos. 3129 & 3130 of 2015 are concerned, the trial Court allowed the petitions to restore the suit along with condone delay petition on specific condition that the plaintiffs/ respondents shall make arrangement to argue their suit through their counsel. Only for the said limited purpose, the suit was restored, though the trial Court passed judgment and decree on merits. Taking advantage of the same again the plaintiffs/respondents came forward with

the present petitions to re-call and re-open the witnesses to strengthen their case. Therefore, the orders passed by the Court below in respect of re-call and re-open the witnesses are perverse and liable to be dismissed.

8. Accordingly, the orders dated 09.06.2015 passed by the learned Additional District Judge, Krishnagir in I.A.Nos.16 & 17 of 2015 in O.S.No.94 of 2008, are hereby set aside. The trial Court is directed to hear the arguments of the plaintiffs/respondents and pass orders on merits and in accordance with law, within a period of thirty (30) days from the date of receipt of copy of this Order.

9. In the result, this Civil Revision Petitions in C.R.P.Nos. 3129 & 3130 of 2015 are allowed and C.R.P.Nos.2146 & 2147 of 2016 are dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

11.01.2021

Index : Yes/No
Speaking order/Non-speaking order
rts

To

1. The Additional District Judge,
Krishnagiri.
2. The Section Officer,
V.R. Section,
Madras High Court,
Chennai.

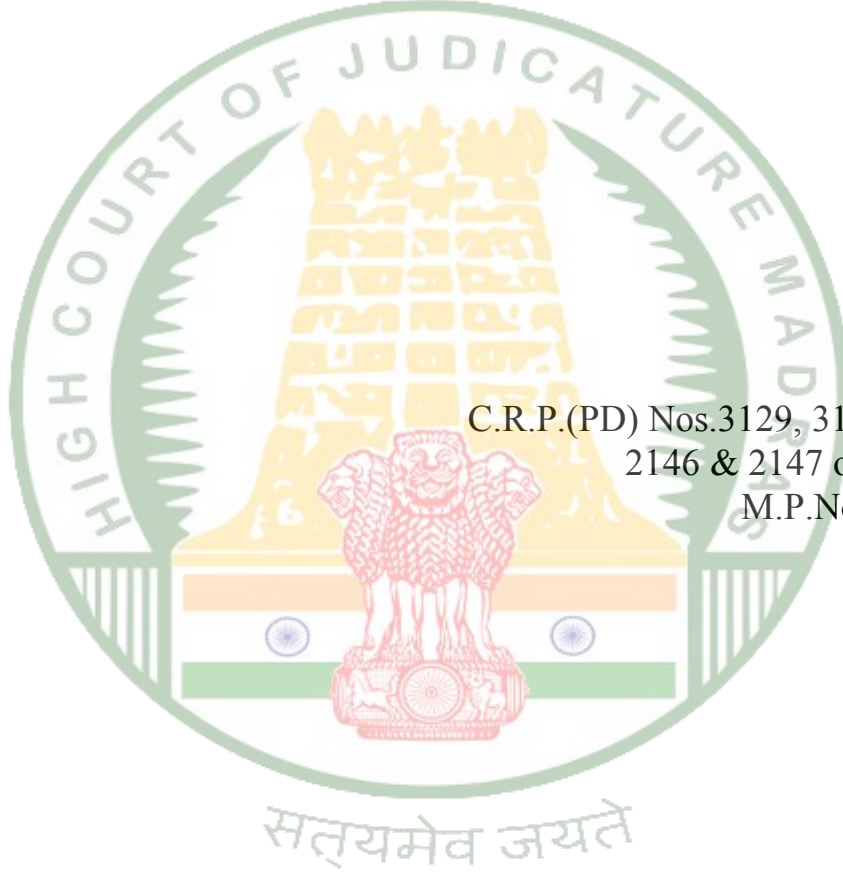


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G.K.ILANTHIRAIYAN, J.

rts



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2146 & 2147 of 2016 and
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