

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2021

CORAM

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

CRP.PD.No.4490 of 2015 and
MP.No.1 of 2015

G.Asaithambi

..Petitioner

Vs.

1.R.Sivakumar
2.The Sub-Registrar,
Mannargudi Register Office,
Mannargudi

..Respondents

PRAYER:

The Civil Revision Petition is filed under Article 227 of the Constitution of India against the order passed in IA.No.30 of 2015 in OS.No.115 of 2010 dated 06.03.2015 by the learned District Munsif Court of Mannargudi.

For Petitioner : Mr.K.Jayaraman

For Respondents
For R1

: Mr.Sivaprakash,
for M/s.P.T.Ramadevi

For R2

: Mr.T.M.Pappiah,
Special Government Pleader

ORDER

The civil revision petition is directed as against the order passed in IA.No.30 of 2015 in OS.No.115 of 2010 dated 06.03.2015 by the learned District Munsif Court of Mannargudi thereby dismissing the petition filed by the petitioner to produce the sale deed dated 10.08.1974 and the Will dated 14.04.2004.

2. The petitioner is the plaintiff who filed suit for declaration declaring him as the legal heir of the deceased Koothayi Ammal and also for declaration declaring that the sale executed in favour of the first respondent herein as null and void. On receipt of notice, the first respondent filed written statement in the month of October 2010 itself. In the written statement, the first defendant took a specific stand that the suit property was purchased by the said Koothaye Ammal by the sale deed dated 10.08.1974. Thereafter she became absolute owner of the suit property and thereafter she executed Will in his favour on 14.04.2004 and the same was registered vide document No.17 of 2004 at the Office of the Sub Registrar, Mannargudi. After period of six years from the date of filing the written statement, the petitioner filed petition to produce those documents before the Court.

3. On perusal of the documents shows that when the suit was posted for trial, the petitioner was absent and as such the suit itself was dismissed. Thereafter it was restored by application and again the suit was posted for trial. Once again the petitioner was absent and dismissed for default by order dated 03.08.2012. Thereafter, the petitioner filed petition in IA.No.537 of 2012 for restoring the suit and again the suit was restored. On that juncture in the year 2015, the petitioner filed petition to produce the sale deed as well as Will executed in favour of the first respondent herein. The petitioner came to understand that immediately after filing written statement the suit property was bequeathed by way of Will in favour of the first respondent herein. In fact, on perusal of the counter also revealed that both the documents were not in possession of the first respondent herein. The first respondent categorically stated that both the documents were already attempted by third parties to take away from the custody of the first respondent and thereafter both the documents were kept in safe custody and therefore whenever both the documents are traced out, it could be produced before the court below. As such, the trial court rightly dismissed the petition and this Court finds no infirmity or irregularity in the order passed by the court below.

4. Accordingly, the civil revision petition is dismissed. Consequently, connected miscellaneous petition is closed. No order as to costs.

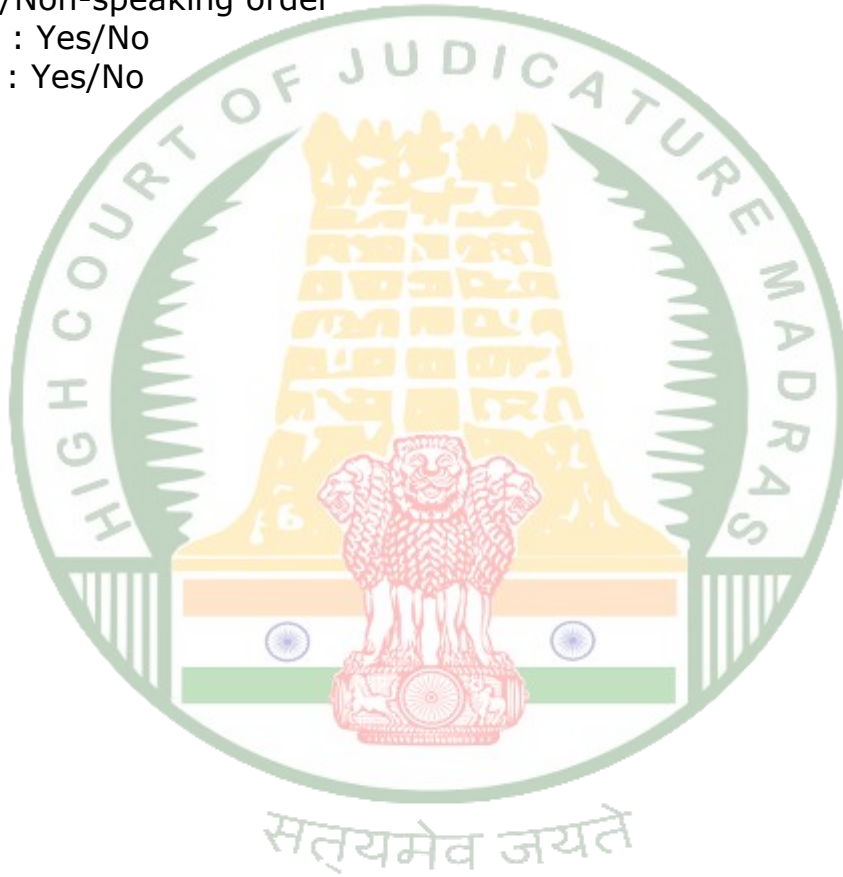
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Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

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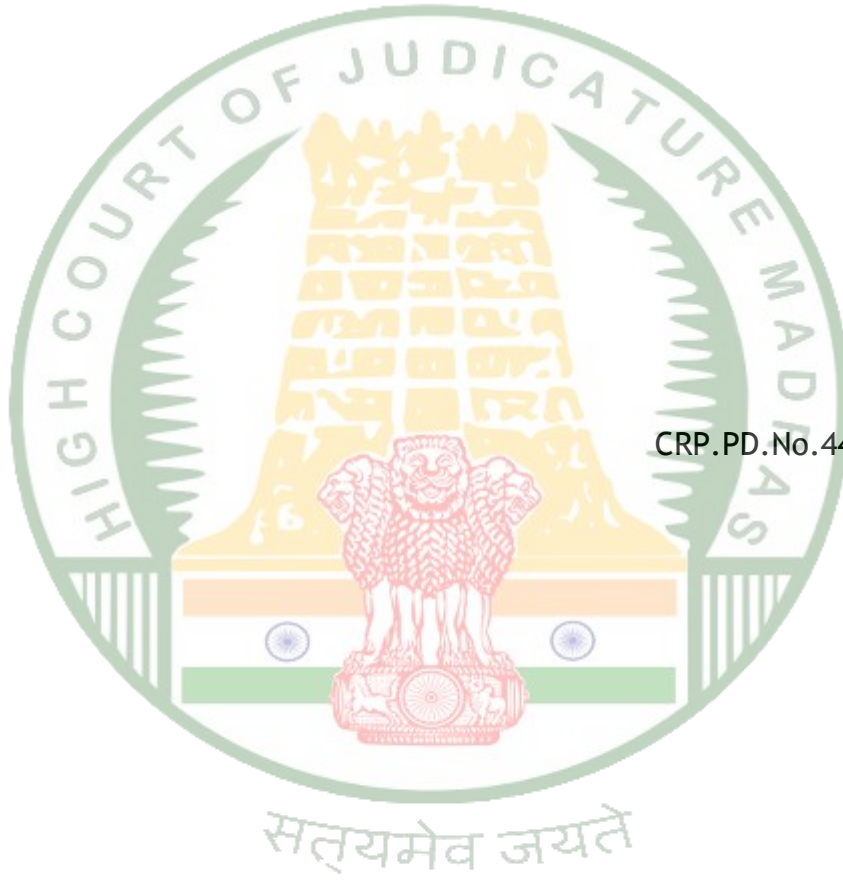
The District Munsif Court
of Mannargudi.



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G.K.ILANTHIRAIYAN,J.

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