

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

CRP(PD)No.1330 of 2021

and

CMP.No.10375 of 2021

[Through Video Conferencing]

S.Sivakumar @ Mounisamy (died)
Rep by legal representatives 3rd to 6th petitioners herein

1.V.Prabu @ Govindan
2.V.Vadivel
3.M.Ponnammal
4.M.Divya
5.M.Shruti
6. M.Sabari

... Petitioners / Defendants

1.A.Ariporoul @ Ariperumal
2.A.Prema

... Respondents / Plaintiffs

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the Order and Decreetal Order dated 17.02.2017 passed in I.A.No.34 of 2017 in O.S.No.449 of 2012 on the file of the I Additional District Munsif at Puducherry and allow the above Civil Revision Petition.

For Petitioners : Mr.Suresh Babu
For Mr.B.Ulaganathan

For Respondents : No appearance

ORDER

The defendants in O.S.No.449 of 2012 which was pending at the file of the I Additional District Munsif Court at Puducherry are the revision petitioners herein.

2.The defendants are aggrieved by the order dated 17.02.2017 in I.A. No.34 of 2017. The said Interlocutory Application had been filed by the plaintiffs in the suit under Order XXIII Rule 1 (3) (b) of the Code of Civil Procedure seeking permission to withdraw the suit namely O.S.No.449 of 2012 with liberty to file a fresh suit on the same cause of action.

3.The revision petitioners herein had joined issue in the said application and had filed a counter. Thereafter, the order was passed as stated more than four years back permitting such withdrawal and granting liberty to file a fresh suit.

4.I am informed by the learned counsel for the revision petitioners that a fresh suit had also been filed in the year 2017 itself in O.S.No.1205 of 2017 and the same is now pending. The suit summons has also been received by the revision petitioners.

5. Therefore, nothing further survives for adjudication in the present Civil Revision Petition which had been filed more out of desperation than out of any legal cause.

6. The order now questioned, had been passed more than four years back and by the said order O.S.No.449 of 2012 had been permitted to be withdrawn and permission had been granted to institute a fresh suit and a fresh suit had also been filed and taken on file more than four years back and is now pending.

7. I am not inclined to grant any relief in the revision petition. The petitioners herein are advised to file necessary written statement if not already filed in O.S.No.1205 of 2017 and raised any objection they want with respect to the averments made in the said plaint.

8. Accordingly, the Civil Revision Petition is dismissed. Consequently, the connected miscellaneous petition is also closed. No order as to costs.

23.07.2021

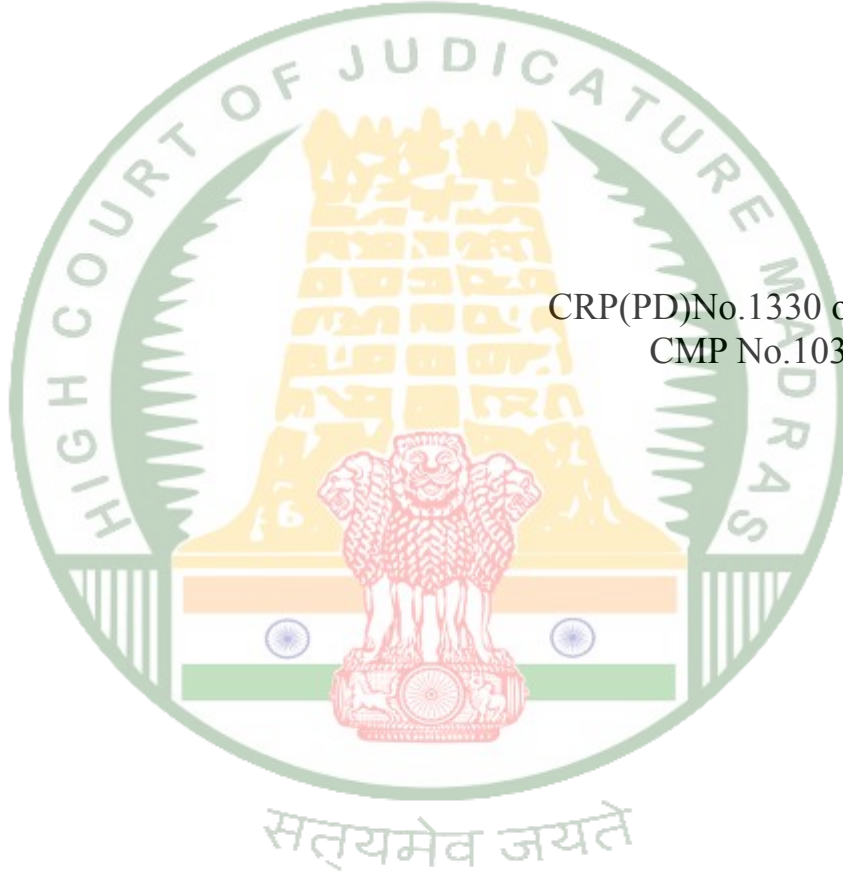
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C.V.KARTHIKEYAN, J.

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To

1.The I Additional District Munsif,
Puducherry.



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