

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 22.12.2020

PRONOUNCED ON : 09.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

CRP(PD)No.1766 of 2016

CMP.No.9342 of 2016

(Through Video Conferencing)

1. Dhanalakshmi
2. Mani

Petitioners

Vs

1. Rani
2. Tamilselvan
3. Santhi
4. Ganesan
5. Vijayalakshmi
6. Balamurugan

Respondents

Prayer:- This Civil Revision Petition has been filed, under Section 227 of the Constitution of India, to set aside the order and decretal order, dated 29.03.2016, passed in IA.No.105 of 2016 in IA.No.153 of 2014 in OS.No.43 of 2014, by the District Munsif cum Judicial Magistrate Court, Uthiramerur.

For Petitioner : Mr.Y.Jyothish Chander

For Respondent : Mr.K.G.Senthil Kumar

ORDER

1. This Civil Revision Petition has been filed, to set aside the order and decretal order, dated 29.03.2016, passed in IA.No.105 of 2016 in IA.No.153 of 2014 in OS.No.43 of 2014, by the District Munsif cum Judicial Magistrate

Court, Uthiramerur.

2. The facts of the case, in a nutshell, are that the Defendants 1 and 2 are the Petitioners and the Plaintiffs are the Respondents. The suit was filed for partition and separate possession and permanent injunction. In the suit, the Plaintiffs have filed IA.No.153 of 2014 for injunction, which was allowed on 23.2.2015, setting the Defendants 1 to 3 exparte. As against the same, the present IA has been filed, which was dismissed by the impugned order. Hence, this Civil Revision Petition has been filed.
 3. The learned counsel for the Petitioners has submitted that they have filed a detailed written statement and non filing of the counter in the application is neither wilful nor wanton and only to due oversight, the Petitioners could not be present on the date, on which, the order of injunction was passed and an opportunity may be given to the Petitioners to contest the application, by allowing this Civil Revision Petition. The learned counsel has relied on **2020 5 CTC 781 (Saraswathy Ammal and others Vs. Govindan and others)**.
 4. The learned counsel for the Respondents has submitted that the Petitioners did not file their counter and they also did not appear and hence, they were set exparte and the reasons assigned by them are not satisfactory and therefore, this Civil Revision Petition is to be dismissed.
 5. This court heard the learned counsel on either side and considered their submissions and also carefully perused the materials placed on record.
 6. The suit is of the year 2014 and the injunction application is of the year 2016.
- Thus, the suit is pending for the past 6 years. Though there are several

submissions raised by the learned counsel on either side, at this stage, it would not be appropriate to take up the injunction application and decide the same. Further, deciding this Civil Revision Petition in one way or the other will cause further delay in disposal of the suit. Therefore, a direction may be given to dispose of the suit itself, as expeditiously as possible. Accordingly, the Trial Court is directed to dispose of the suit itself in OS.No.43 of 2014, on merits and in accordance with law, within a period of three months from the date of receipt of a copy of this order.

7. With the above directions, this Civil Revision Petition is disposed of. No costs. Consequently, the connected MP is closed.

09.02.2021

Index:Yes/No
Web:Yes/No
Speaking/Non Speaking
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To

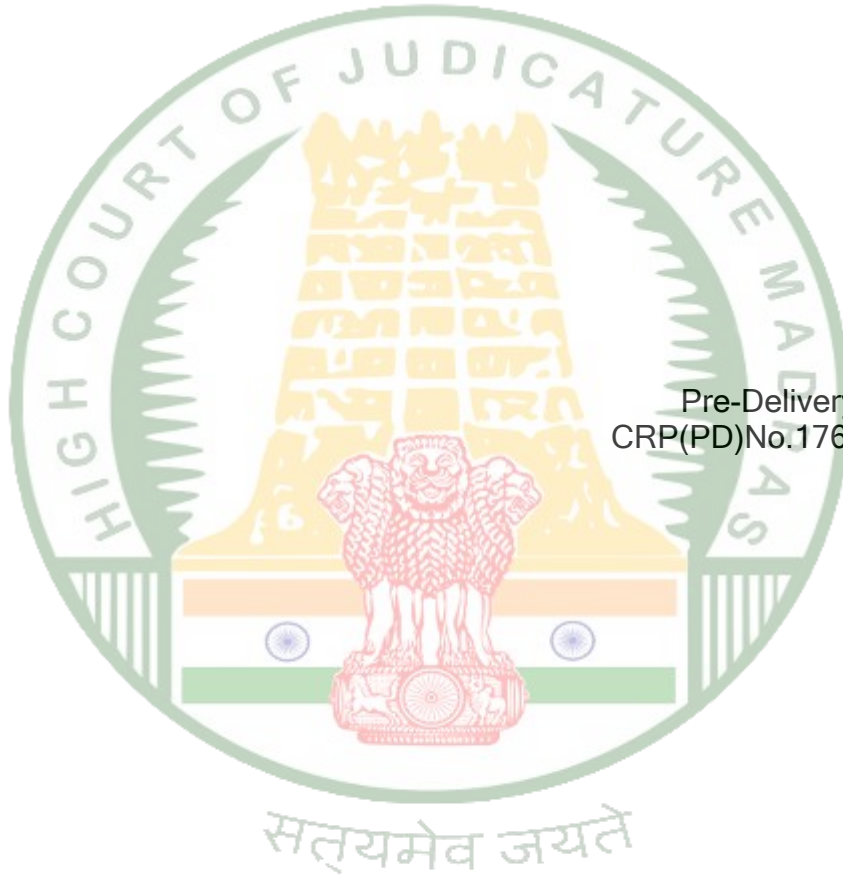
1. The District Munsif cum Judicial Magistrate Court, Uthiramerur

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CRP(PD)No.1766 of 2016

A.A.NAKKIRAN, J.

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Pre-Delivery Order in
CRP(PD)No.1766 of 2016

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