

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.03.2021

CORAM

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

C.R.P.(PD) No.1871 of 2016
and C.M.P.No.9777 of 2016

1. Tmt.Lakshmy Anandan
2. Sivakami
3. Mrs.Moganasundari
4. Premkumar
5. Mrs.Priya

... Petitioners

Vs.

1. S.M.A.Elayanar
2. S.M.A.Damodaran

.... Respondents

Prayer:-

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order and decretal order dated 18.04.2016 made in I.A.No.2401 of 2016 in O.S.No.330 of 2014 on the file of the XIII Assistant Judge, City Civil Court, Chennai.

For Petitioners :

Mr.T.Dhanasekaran

For Respondents :

Mr.S.Mohan

ORDER

This Civil Revision Petition is directed as against the fair and decretal order dated 18.04.2016 made in I.A.No.2401 of 2016 in O.S.No.330 of 2014 on the file of the XIII Assistant Judge, City Civil Court, Chennai. thereby, dismissing the petition seeking to reject the plaint on the ground of limitation.

2. The petitioners are the legal heirs of the deceased S.M.Anandan. The respondents have also claimed to be the legal heirs of the deceased S.M.Anandan. The petitioners are the defendants and the respondents are the plaintiffs. The plaintiffs filed a suit for declaration declaring them as legal heirs of the deceased S.M.Anandan.

3. The learned counsel for petitioners would submit that the plaintiffs/respondents filed the suit for declaration declaring them as legal heirs of the deceased S.M.Anandan on 25.10.2013. According to them, the said S.M.Anandan was died on 06.03.2000. Therefore, the limitation is

only 3 years to file the present suit for declaring the plaintiffs as the legal heirs of the deceased S.M.Anandan whereas they filed the suit after a period of 13 years and as such the suit is barred by limitation. He further submitted that there is no cause of action for the respondents to file the suit. Since they have already approached the District Collector for issuance of legal heirship certificate and by an order dated 24.04.2002, the District Collector, Chennai, directed the respondents to file the suit for obtaining Succession Certificate. Without filing any suit for obtaining Succession Certificate, the respondents simply suppressed those facts and filed the present suit.

4. Per contra, the learned counsel for respondents would submit that the suit was filed for declaring the respondents as the legal heirs of the deceased S.M.Anandan.

5. In fact, the trial Court has dismissed the petition as the issue involved is question of facts which has to be gone into by the trial Court in the main suit. Further observed that till date the Court has not framed any issue for limitation. After framing the issue on question of limitation, the

main suit will be decided on merits. Therefore, this Court finds no illegality or infirmity in the order passed by the Court below. However, the trial Court is directed to frame the issue on the question of limitation and complete the trial within a period of three months from the date of receipt of a copy of this order. The petitioners are at liberty to raise all the points before the trial Court.

7. Accordingly, this Civil Revision Petition stands dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

03.03.2021

Internet : Yes

Index : Yes/No

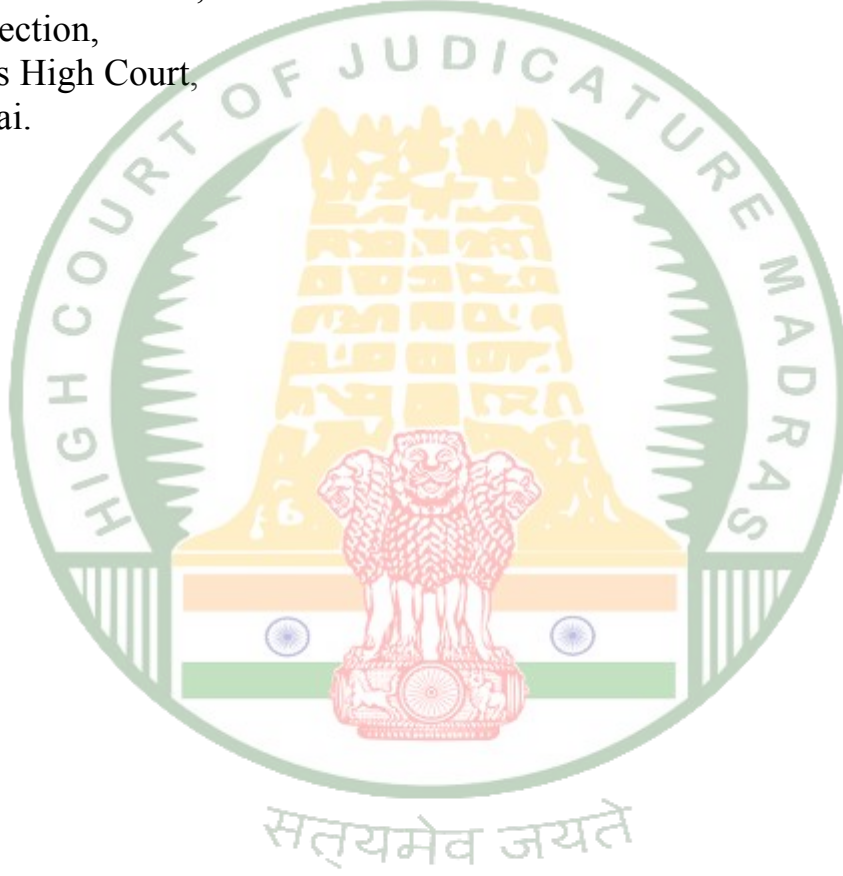
Speaking order/Non-speaking order

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To

1. The XIII Assistant Judge,
City Civil Court, Chennai.
2. The Section Officer,
V.R. Section,
Madras High Court,
Chennai.

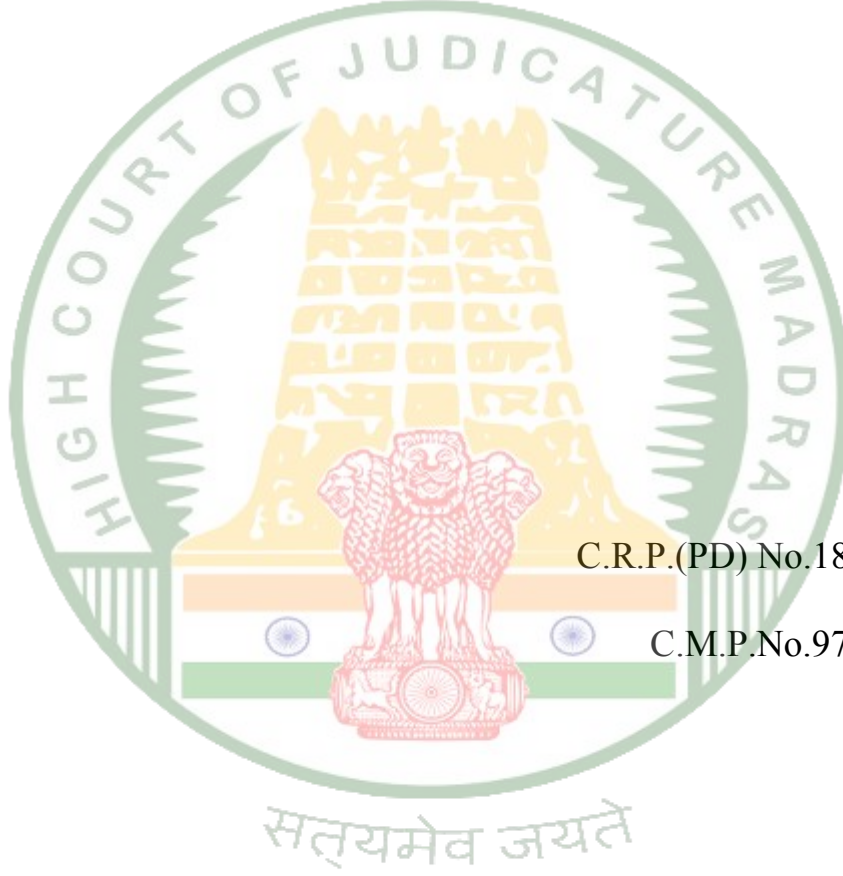


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G.K.ILANTHIRAIYAN, J.

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