

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.01.2021

CORAM

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

CRP.PD.No. 2176 of 2016

and

CMP.No.11282 of 2016

Tamilarasi

... Petitioner

Vs.

1. Rajendran

2. Udhayasankar

3. Jayarani

... Respondents

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India praying to set aside the fair and decretal orders passed in I.A.No.421 of 2015 in O.S.No.230 of 2009 dated 26.04.2016 on the file of the Court of District Munsif, Sirkali and allow the Said I.A by allowing this Civil Revision Petition.

For Petitioner : Mr. A.Muthukumar

For Respondents : Mr.S.Sounthar

ORDER

This Civil Revision Petition is arising out of the fair and decretal order passed in I.A.No.421 of 2015 in O.S.No.230 of 2009 dated 26.04.2016 on the file of the District Munsif, Sirkali, thereby, dismissing the petition filed for impleading the third defendant in the suit.

2. The petitioner is the plaintiff. She filed a suit for declaration, recovery of possession and injunction, in respect of the suit schedule properties. The first and second respondents herein filed a written statement stating that in the B schedule property, Item No.6 originally belonged to the first defendant and thereafter, the said property was settled in favour of his wife one Jayarani. Thereafter, the first defendant also filed additional written statement, in which they categorically stated that Item No.6 of B schedule property was already settled in favour of the first defendant's wife and as such the suit itself is bad for non-joinder of necessary party. Therefore, the petitioner filed a petition to implead the third defendant in the suit. The said application was dismissed on the ground that the petitioner already filed the petition for amendment and the same was allowed by an order dated 26.04.2011. Thereafter, the suit was dismissed for default by an order dated 13.12.2011 and it was restored only on 16.08.2013. Thereafter, the petitioner filed the petition to implead the third respondent herein only to drag the proceedings and nothing else.

3. On a perusal of the written statement as well as the additional written statement filed by the first and second respondents herein, it is seen that they have categorically mentioned that Item No.6 of B schedule property was also settled in favour of the third respondent herein. Therefore, the third respondent is sought to be impleaded as a party to the suit proceedings.

4. In view of the above discussion, this Civil Revision Petition is allowed and the order passed in I.A.No.421 of 2015 in O.S.No.230 of 2009 dated 26.04.2016 is set aside. As the suit is of the year 2009, the trial Court is directed to complete the trial within a period of six months from the date of receipt of a copy of this order. Consequently, the connected Miscellaneous Petition is closed. No costs.

20.01.2021

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

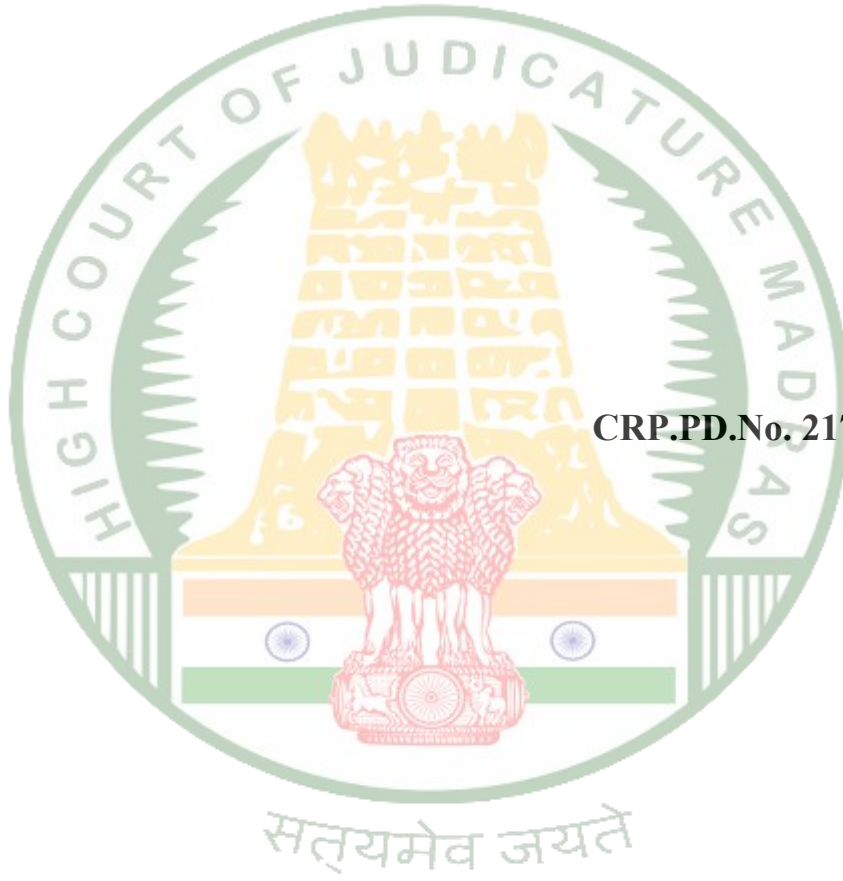
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To

The District Munsif, Sirkali.

G.K.ILANTHIRAIYAN,J.

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