

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.07.2021

C O R A M

THE HON'BLE MS. JUSTICE R.N. MANJULA

C.R.P.(NPD) No.2849 of 2016.

and

C.M.P. No.14459 of 2016

Mrs. Santhi

... Petitioner

Vs.

1. Ganesan S/o. Ayyakkannu
2. Kumar S/o. Ganesan,
3. Sekar, S/o. Ganesan,
4. Kasi S/o. Ayyakkannu
5. B. Rajendra Kumar S/o. Beemaraj,
6. Thangaraj,
7. Kannayaram,
8. R.Sekar,
9. P. Anbalagan, S/o. Pachiyappan,
10. Malliga, W/o. Duraisamy,
11. Shanmugam, S/o. Valaguru Mudaliar

... Respondents

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Prayer: This Civil Revision Petition is filed under Section 115 of the Civil Procedure Code to set aside the fair and decretal order dated 01.06.2016 passed in I.A. No.32 of 2014 in A.S.No.21 of 2013 on the file of the Principal Sub-ordinate Court, Tiruvannamalai.

For Petitioner ... M/s. S. Suseela Devi
For Respondents-1-4 ... No Appearance
For Respondent-5 ... Mr. S. Silambu Selvan.
For Respondents-6-11 ... No Appearance

ORDER

This Civil Revision Petitions has been filed under Section 115 of the Civil Procedure Code to set aside the fair and decretal order dated 01.06.2016 passed in I.A. No.32 of 2014 in A.S.No.21 of 2013 on the file of the Principal Sub-ordinate Court, Tiruvannamalai.

2. The petitioner being the plaintiff in the suit in O.S. No.537 of 2007 on the file of the District Munsiff, Tiruvannamalai has filed the suit for partition and separate possession for 1/4th share in the suit properties. A petition in I.A. No.46 of 2013 in O.S.No.537 of 2007 was filed to implead some third parties as proposed defendants 10 and 11 on the allegation that the proposed parties are the subsequent purchasers from the defendants 1 to 3. The petition was dismissed by the Trial Court on 01.02.2013. Subsequently, the suit was also dismissed on 04.02.2013. Aggrieved over the same, the petitioner/plaintiff has preferred the appeal in A.S. No.21 of 2013 before the Principal Sub-Court, Tiruvannamalai.

During the pendency of the First Appeal, the petitioner once again filed a petition in I.A. No.32 of 2014 to implead the proposed parties as respondents 10 & 11 in the Appeal proceedings. The learned First Appellate Judge has dismissed the said petition observing that the petitioner did not prefer any revision against the order of dismissal passed by the Trial Court in the impleading petition. Being aggrieved by the said order passed in I.A. No.32 of 2014, the petitioner has filed the present Civil Revision petition.

3. Heard the arguments of the learned counsel for the petitioner and the learned counsel for the 5th respondent and perused the materials available on record.

4. The learned counsel for the petitioner submitted that since the suit itself was dismissed on the very next day, it was not possible for them to challenge the order passed in the impleading petition and hence she once again filed the party impleading petition before the First Appellate Court.

5.The suit is for partition. If the suit is decreed and preliminary decree is passed with regard to the entitlement of the shares of the parties, the same would bind the subsequent purchasers, who had purchased the property from the sharers. In such circumstances, there is no necessity to implead them as parties to the suit. But in this case, the suit itself has been dismissed and there is no decree as to the entitlement of the shares between the parties has been passed. The result of the Appeal also will have the same binding on D2 and D3 and their purchasers also.

6.In such view of the matter, I feel that this petition itself is unnecessary. Hence, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is also closed.

सत्यमेव जयते

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05.07.2021

Lbm

Index: Yes/No.

Speaking/Non-Speaking order

Internet: Yes/No.

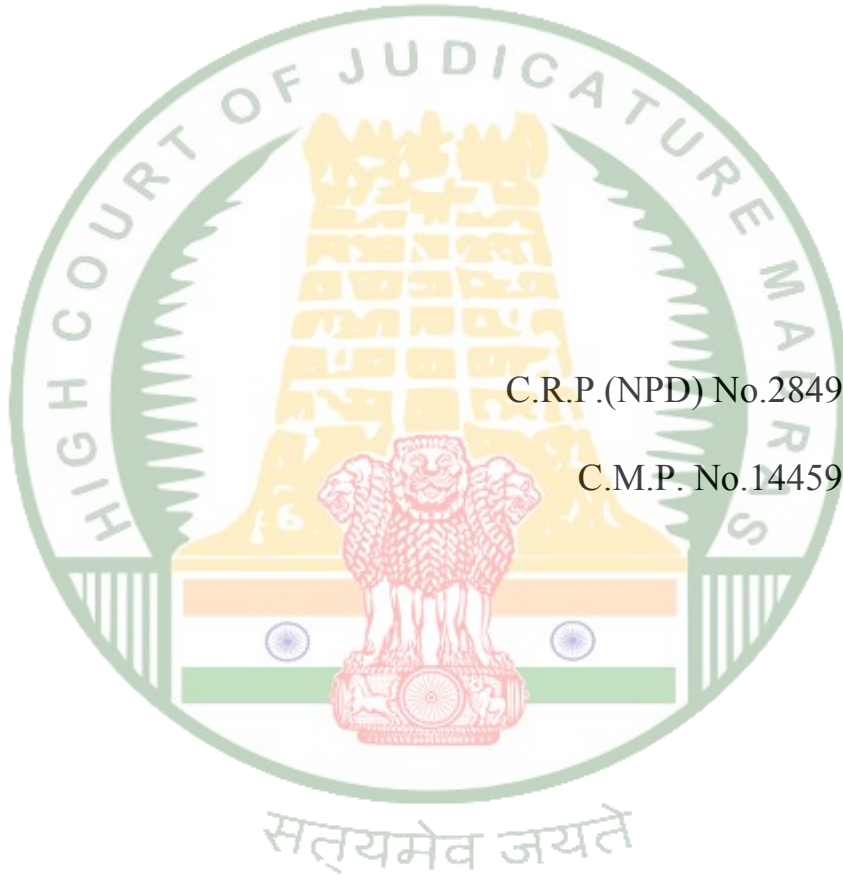
To:

The Principal Sub-ordinate Court,
Tiruvannamalai.

C.R.P.(NPD) No.2849 of 2016

Ms. R.N. MANJULA, J

lbm



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