

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.02.2021

CORAM

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

C.R.P.(PD)No.3562 of 2016
and C.M.P.No.18133 of 2016

Shanthi ... Petitioner

Vs.

Manivannan ... Respondent

Prayer:- Civil Revision Petition is filed under Section 115 of C.P.C., to set aside judgment and decree dated 03.02.2016, passed in I.A.No.1750 of 2015 in O.S.No.344 of 2005 on the file of the I Additional District Munsiff cum Judicial Magistrate Court No.1, Ulundurpettai.

For Petitioner : Mr.N.Naganathan

For Respondent : Mr.C.Munusamy

ORDER

The Civil Revision Petition is directed as against the judgment and decree dated 03.02.2016, passed by the learned I Additional District Munsiff cum Judicial Magistrate, Court No.1, Ulundurpettai in I.A.No.1750

of 2015 in O.S.No.344 of 2005, thereby dismissing the petition filed by the petitioner to send the documents for hand writing experts opinion.

2. The petitioner is the plaintiff and she filed suit as against the respondent for declaration and injunction in respect of the suit property, on the strength of the settlement deed executed by her mother dated 13.12.2004. The petitioner and the respondent are the sister and brother. On perusal of written statement filed by the respondent, it revealed that in respect of the first item of the suit property is concerned, originally the suit property belonged to one Vasudeva Konnar and he executed sale deed in favour of the petitioner and respondent's mother viz., Poongavanan by the registered sale deed dated 04.09.1980. After demise of the said Vasudeva Konnar, his legal heirs without canceling the earlier sale deed, they also executed another sale deed in favour of the respondent herein.

3. In respect of the second item of the suit property is concerned, the total extent is 2 acre 68 cents in which, the respondent purchased half of the portion from one Ramachandra Konnar by the registered sale deed dated

16.05.1983. In respect of the remaining portion of the suit second item property, the same was purchased by his mother vide registered sale deed dated 04.09.1980. Thereafter she executed a registered settlement deed dated 03.01.1995 in favour of the respondent herein and therefore, the petitioner has no interest over the suit property.

4. Admittedly, the respondent purchased the first item of the suit property after the purchase of his mother without cancelling the earlier sale deed. In respect of the second item of the suit schedule property, the same was settled in his favour by the registered settlement deed dated 03.01.1995. The petitioner filed this present suit on the strength of the settlement deed executed by her mother dated 13.12.2004 in her favour. Now the petitioner came forward with the present petition to get hand writing expert's opinion by sending those settlement deeds dated 13.12.2004 as well as 03.01.1995.

5. The learned counsel appearing for the petitioner would submit that the respondent never produced the alleged settlement deed dated 03.01.1995 and on application before the concerned Sub Registrar Office,

there is no document of settlement deed dated 03.01.1995 in favour of the respondent herein.

6. While being so, it is not possible to get hand writing expert's opinion after verifying the signature found in the settlement deeds dated 13.12.2004 and 03.01.1995. Therefore, the trial Court rightly dismissed the petition filed by the petitioner and this Court finds no illegality or infirmity in the order passed by the Court below.

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

04.02.2021

Internet : Yes

Index : Yes/No

Speaking order/Non-speaking order

rts

To

1. The I Additional District Munsif
cum Judicial Magistrate Court No.1,
Ulundurpettai
2. The Section Officer,
V.R. Section,
Madras High Court,
Chennai.

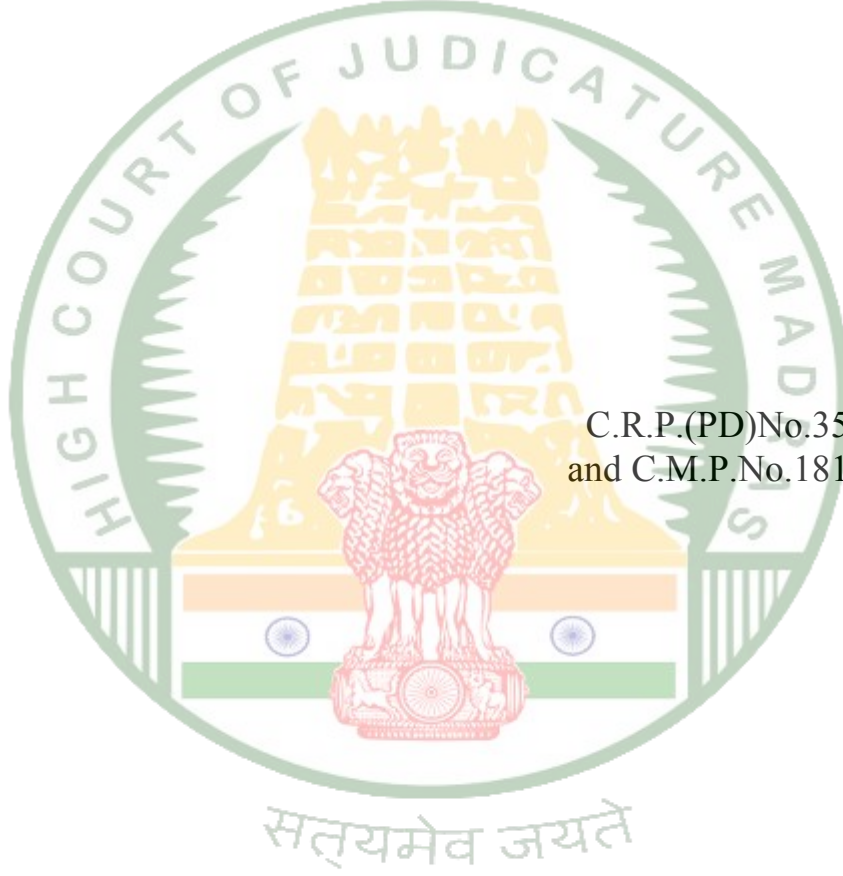


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G.K.ILANTHIRAIYAN, J.

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