

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

C.R.P.(P.D).No.3607 of 2016
and C.M.P.No.18358 of 2016

Halilur Rahman ...Petitioner

Vs

1.Haja Kamaludeen
2.Meharunnisa
3.Rajbunissa
4.Mumthaj
Haja Sirajudeen (Deceased)
5.Hithayathulla

...Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Indian Constitution of India to set aside the fair and final order passed in I.A.No.179 of 2011 in O.S.No.25 of 2011 dated 25.10.2016 passed by Sub Court, Mannargudi.

For Petitioner : Mr.B.Jawahar
For Respondents : Mr.S.Sounthar
for R1 to R4
for R5-notice served-NA

ORDER

This Civil Revision Petition is directed as against the fair and final order passed in I.A.No.179 of 2011 in O.S.No.25 of 2011 dated 25.10.2016 passed by Sub Court, Mannargudi, thereby ordered civil imprisonment for a period of one week as against the petitioner herein for violating the interim injunction granted in I.A.No.52 of 2011.

2.The petitioner is the 1st defendant in the suit filed by the respondents 1 to 4 herein for declaration declaring that the settlement deed executed in favour of the petitioner herein dated 02.06.2005 is null and void. At the time of filing the suit, the respondents 1 to 4 also filed a petition in I.A.No.52 of 2011, restraining the petitioner from alienating the suit property. The trial Court granted ~~exparte~~ interim injunction and the same was periodically extended. While the interim order of injunction was very much in force, the petitioner herein, on the strength of the settlement deed dated 02.06.2005, executed the sale by a registered sale deed dated 10.05.2011, for the total sale consideration of Rs.2,79,300/- to the third party, thereby, he violated the interim order of injunction granted in I.A.No.52 of 2011 by the trial Court. Therefore, the respondents 1 to 4

herein filed a petition in I.A.No.179 of 2011 in O.S.No.25 of 2011, to punish the petitioner herein for violating the interim injunction granted against him.

3.The learned counsel for the petitioner would submit that the petitioner is none other than the own brother of the respondents 1 to 4 herein. According to the respondents, their father never executed any settlement deed in favour of the petitioner herein and they disputed the same. Subsequently, they also filed a suit for partition in O.S.No.41 of 2011 on the file of the Sub-Court, Mannargudi, and it is pending, in which the petitioner herein is also having his share in the suit property. Though the trial Court granted interim injunction in I.A.No.52 of 2011, it was not extended after 29.04.2011. Therefore, the petitioner sold out the property to the third parties by the sale deed dated 10.05.2011. He also submitted that thereafter the interim petition was also dismissed by the trial Court. However, it was challenged before the Appellate Court in C.M.A.No.8 of 2011 and the same was allowed and interim injunction granted as against the petitioner was restored. He further submitted that the petitioner is ready and willing to deposit some substantial amount received by way of sale

consideration, in respect of the suit property.

4.The learned counsel for the respondents 1 to 4 would submit that in I.A.No.52 of 2011, the trial Court granted interim injunction restraining the petitioner from not to alienate the suit property and subsequently it was extended from time to time. In fact on 29.04.2011, it was extended and the matter was adjourned to 07.06.2011 and subsequently interim order was extended periodically. Though the trial Court dismissed the injunction petition on 02.08.2011, it was set aside by the 1st Appellate Court in C.M.A.No.8 of 2011 and the interim injunction was restored as against the petitioner herein. The suit is pending for trial. In fact in the suit filed by the respondents 1 to 5 for partition, in which also there was interim order of injunction against the petitioner herein, thereby restraining him from alienating the suit property. Even then, he sold out the suit property and violated the order passed by the Court below. Therefore, he sought for dismissal of the Civil Revision Petition.

5.Admittedly, the petitioner is the brother of respondents 1 to 5 herein. The respondents 1 to 5 herein filed a suit for declaration declaring that the settlement deed executed in favour of the petitioner, by the father of

the respondents 1 to 5, in which they sought restraining from alienating the suit property. They also filed a suit for partition as against the petitioner herein and it is also pending for trial. Therefore, in the suit property, the petitioner is also having his share. However, he violated the interim order passed by the Court below, thereby executed the sale deed on 10.05.2011, in favour of the third parties in respect of the suit property.

6.The learned counsel for the petitioner would submit that the petitioner is ready and willing to deposit the substantial sale consideration to the credit of the suit. The said amount may be released subject to the result of the suit.

7.Considering the submissions made by the learned counsel on either side, the condition of Civil imprisonment for a period of one week alone, in the order passed in I.A.No.179 of 2011 in O.S.No.25 of 2011 dated 25.10.2016 passed by Sub Court, Mannargudi, is hereby set aside, on condition that the petitioner shall deposit a sum of Rs.2 lakhs (Rupees Two Lakhs), to the credit of O.S.No.25 of 2011, within a period of three weeks from the date of receipt of a copy of this order. Further, the Sub Court, Mannargudi, is directed to dispose of the suits in O.S.Nos.25 of 2011 and 41

of 2011 within a period of six months from the date of receipt of a copy of this order.

8. With the above direction, the Civil Revision Petition is disposed of. No costs. Consequently connected miscellaneous petition is closed.

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Index: Yes/No

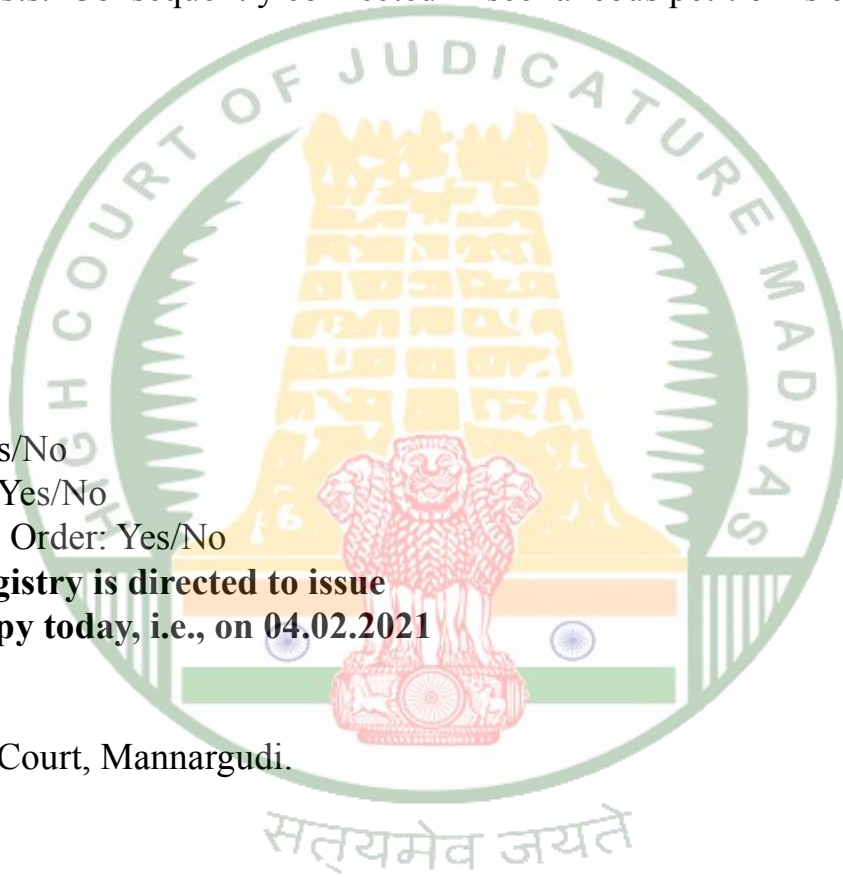
Internet: Yes/No

Speaking Order: Yes/No

Note: Registry is directed to issue order copy today, i.e., on 04.02.2021

To

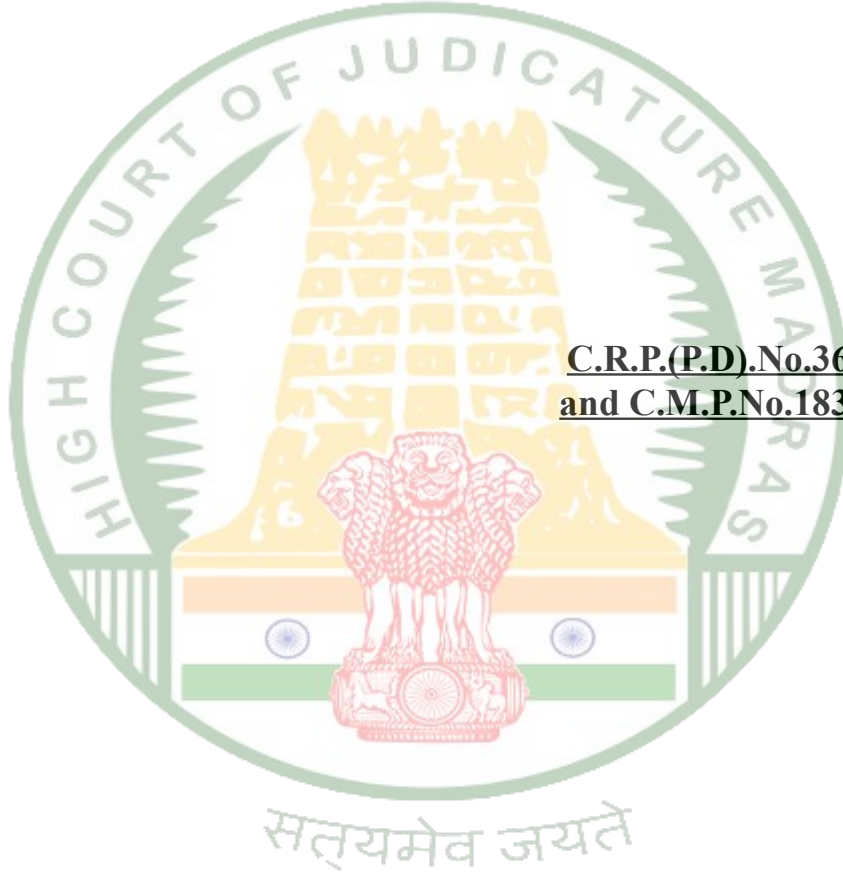
The Sub Court, Mannargudi.



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G.K.ILANTHIRAIYAN.J,

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