

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.02.2021

CORAM

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

CRP.PD.No.3718 of 2016
and CMP.No.18888 of 2016

Kancheepuram Town Madam Street
Mookur Peria Madam
Rep. By its President Madathipathi
Tmt.Thirupurasundari
29-A/1, Madam Street,
Kancheepuram.

.. Petitioner/Plaintiff

Vs.

1.Vijaya
2.Indirakumari
3.Kumudha
4.Sivaprakasam
5.The Branch Manager
Pattukottai Azhagiri Transport Corporation Ltd
No.28/B-2, Madam Street, Kancheepuram.

6.J.Radhakrishnan

7.J.Madhavan

8.Manjunathan

9.Dhakshayani

.. Respondents/Defendants

PRAYER : The Civil Revision Petition filed under Article 227 of the Constitution of India aggrieved by the docket order dated 23.09.2016 made

in O.S.No.79 of 2010 on the file of the District Court – II, Kancheepuram.

For Petitioner : Mr.M.Sriram

For Respondents : No appearance [R1 to R3, R5, R8 & R9]
R4 - died
Mr.R.Sivaraman [R6 & R7]

ORDER

The present Civil Revision Petition is aggrieved on the docket order dated 23.09.2016 made in O.S.No.79 of 2010 on the file of District Court – II, Kancheepuram.

2. The petitioner is the plaintiff. She filed a suit as against the respondent for the following :-

(1) to permit this petitioner/plaintiff to sue in forma-pauperis;

(2) to declare that the lease deed dated:9-4-1957 executed between S.V.Natesa Mudaliar and Rudramuni Swamigal of Mookur Mutt, Kancheepuram after the demise of the said Rudramuni Swamigal is void and not binding as against this petitioner/plaintiff and as a consequence direct the respondents/defendants to deliver vacant possession of the suit 'E' to 'G' Schedule mentioned properties to the petitioner/plaintiff after removal of the superstructure; failing which the same may be done through Court;

(3) to conduct an enquiry under Order-20, Rule-12, C.P.C. to direct the respondents/defendants to pay future mesne profits respective to their portion of the property in their possession for use and occupation from the date of petition/plaint till the date of delivery of possession.

3. After examining both sides witnesses and on hearing the arguments of both sides, the Trial Court issued the following directions :-

1) The plaintiff is directed to implead the General Power of Attorney Agent by name K.Srinivasan, S/o. Kasi Lingam, No.1C, Anandajothi Street, 34D Divison, Kanchipuram.

2) The plaintiff is directed to implead the purchasers who purchased the Mutt properties under Ex.B.21 to Ex.30 sale deeds.

3) The plaintiff is further directed to implead the subsequent purchasers if any who are not brought to the knowledge of the Court.

4) The plaintiff is directed to implead the Commissioner, Municipality who gave the approved lay out in respect of mutt property in favour of the third party.

5) The plaintiff is directed to file commission petition to note down the physical features of Mutt Properties/Suit Properties.

4. The Trial Court issued the above directions for the reason that except D6 and D7 in suit, other defendants have already surrendered the

possession of their respective properties to the plaintiff-Mutt. Further, Ex.B1 filed by the defendants revealed that the plaintiff executed a General Power of Attorney in favour of one K.Srinivasan. She executed a sale deed which were marked as Exs.B21 to B30 in respect of properties belonging to Mutt to the third parties to an extent of 10627-1/2 sq.ft for the total sale consideration of RS.41,57,000/-. For the further reason that the properties which were sold out by Thirupurasundari Ammal through the Power of Attorney, belongs to Mutt property. Whereas, Ex.B1 revealed that the properties which were sold out by her, are personal properties of the said Thirupurasundari Ammal.

5. On these grounds, the Trial Court can very well dismiss the suit filed by the plaintiff. Instead of dismissing the suit, the Trial Court issued the above directions in order to protect the properties belonging to the Mutt-plaintiff. The suit itself was filed for the above said relief. Therefore, the directions issued by the Trial Court are no way connected with the relief sought for. If at all the plaintiff proves her case by evidence, the Trial Court can very well dismiss the case. Therefore, the directions issued by the Trial Court is unwarranted and not necessary to decide the suit filed by the plaintiff.

6. Accordingly, the docket order dated 23.09.2016 made in O.S.No.79 of 2010 on the file of the District Court – II, Kancheepuram is set aside and the Civil Revision Petition is allowed. It is made clear that the Trial Court can very well dismiss the suit on the above ground and accordingly, the Trial Court is directed to dispose of the suit within a period of four months from the date of receipt of a copy of this order on merits and in accordance with law. No order as to costs. Connected civil miscellaneous petition is closed.

16.02.2021

Index : Yes/No
Internet : Yes/No

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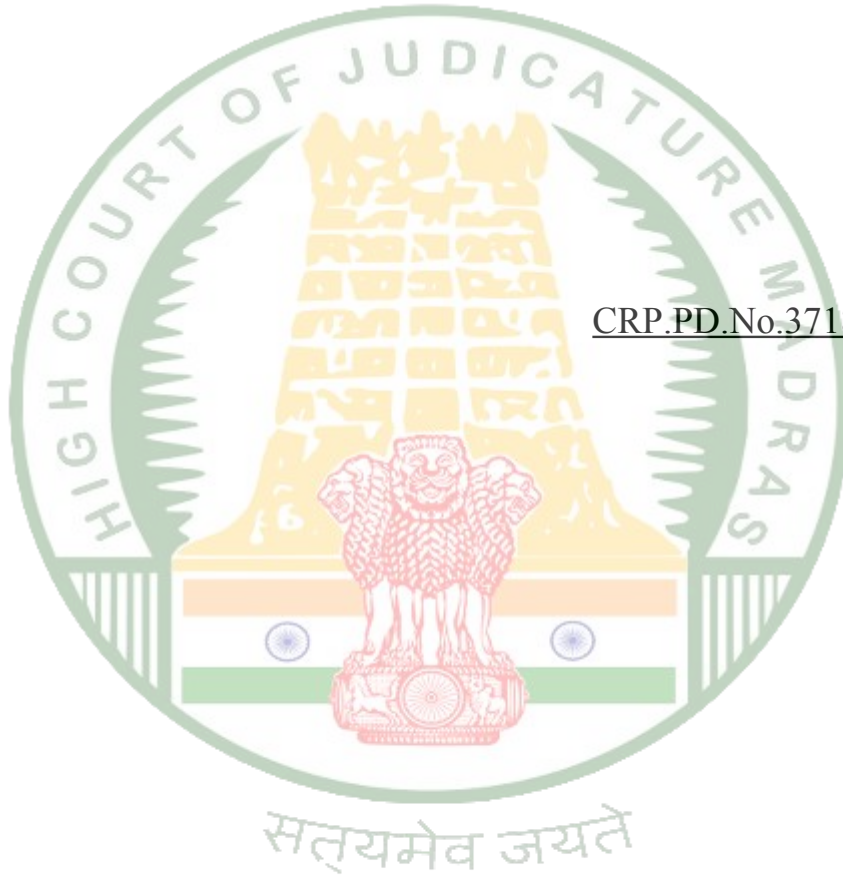
To

1.The Branch Manager
Pattukottai Azhagiri Transport Corporation Ltd.,
No.28/B-2, Madam Street, Kancheepuram.

2.District Court – II,
Kancheepuram.

G.K.ILANTHIRAIYAN,J.

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