

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

C.R.P.(P.D).No.3823 of 2016
and C.M.P.No.19522 of 2016

Mohanraj

...Petitioner

Vs

M.Krishnaveni

...Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and final order passed in Tr.O.P.No.3 of 2016 on the file of the Principal District Judge, Coimbatore dated 30.08.2016.

For Petitioner : Mr.B.Gopalakrishnan

For Respondent : No appearance

ORDER

The Civil Revision Petition is directed as against the fair and decretal order passed in Tr.O.P.No. 3 of 2016 on the file of the Principal District Judge, Coimbatore, dated 30.08.2016, thereby dismissed the petition filed by the petitioner for transferring the suit filed by him in 2028 of 2014 from the file of the 1st Additional District Munsif, Coimbatore, to the file of

the 1st Additional District Judge, Coimbatore, to try along with O.S.No.364 of 2015.

2.The petitioner is the plaintiff in both the suits in O.S.Nos.2028 of 2014 and 364 of 2015. Initially the petitioner filed the suit in O.S.No.2028 of 2014 on the file of the 1st Additional District Munsif, Coimbatore, for declaration declaring that the cancellation deed executed by the respondent as null and void in respect of the suit schedule property. Subsequently he filed another O.S.No.364 of 2015 for declaration declaring that the very same suit schedule property is belong to the petitioner herein. Admittedly, both the suits filed in respect of the very same property and both the suits are pending between the very same parties. Therefore, the petitioner filed a petition for transfer of the suits to try the same in one Court. The Court below dismissed the petition for the reason that the petitioner himself denied the cancellation of deed executed by the respondent and on the other hand he filed suit for declaration declaring that the absolute owner of the suit property. Further stated that if both the suits are ordered for joint trial, one of the party will lose their chance of filing appeal before the Appellate Court.

3.On perusal of both the complaints, the petitioner filed a suit for declaration declaring that the cancellation deed executed by the respondent as null and void and another suit for declaration declaring that he is the absolute owner of the suit property. Therefore, there is no contradiction in the prayer sought for by the petitioner herein. Further due to pecuniary jurisdiction, the 2nd suit filed before the 1st Additional District Court, Coimbatore, and as such there is absolutely no impediment by the respondent for transferring the suit to the 1st Additional District Court, Coimbatore, to try along with other suit in O.S.No.364 of 2015. Therefore, the order dated 30.08.2016 in Tr.O.P.No.3 of 2016 is perverse and contrary to the facts.

4.In view of the above submissions, the order passed in Tr.O.P.No.3 of 2016 on the file of the Principal District Judge, Coimbatore dated 30.08.2016, is set aside and accordingly, the Civil Revision Petition is allowed. The suit in O.S.No.2028 of 2014 on the file of the 1st Additional District Munsif, Coimbatore is hereby withdrawn and transferred to the file of the 1st Additional District Judge, Coimbatore. On receipt of the entire bundle, the 1st Additional District Judge, Coimbatore is directed to conduct

joint trial with the O.S.No.364 of 2015 and complete the same within a period of 12 months from the date of receipt of the case bundles from the 1st Additional District Munsif, Coimbatore. No costs. Consequently connected miscellaneous petition is closed.

22.01.2021

Index: Yes/No
Internet: Yes/No
Speaking Order: Yes/No
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To

- 1.The Principal District Judge, Coimbatore.
- 2.The 1st Additional District Munsif, Coimbatore.

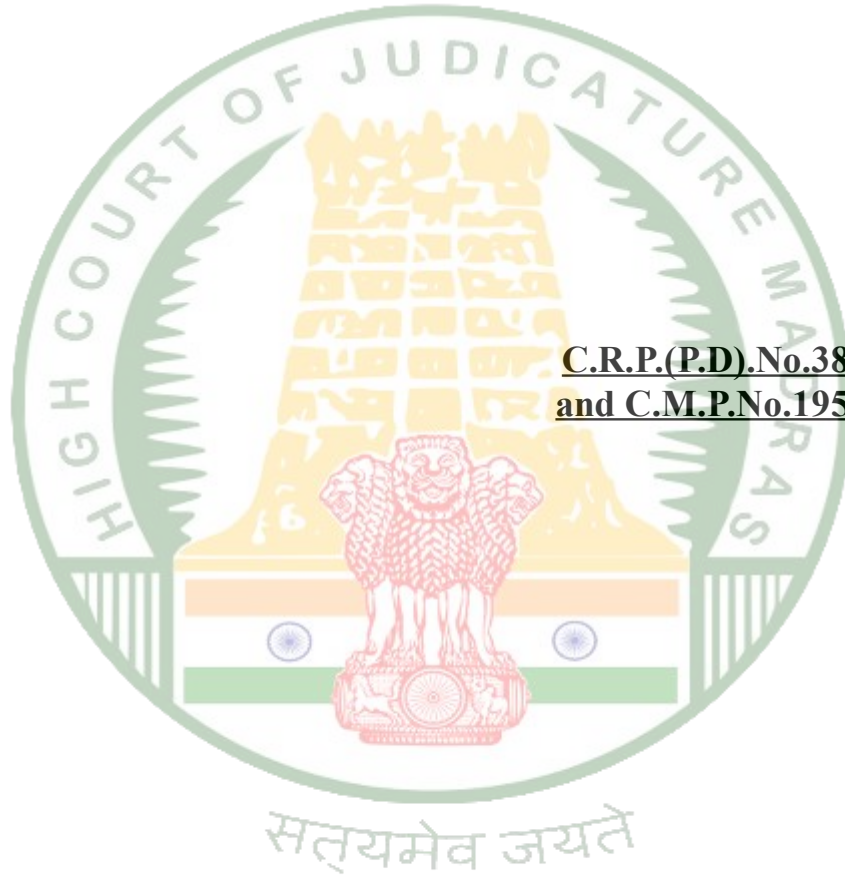


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G.K.ILANTHIRAIYAN.J,

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