

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.06.2021

CORAM

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

C.R.P.(PD)No.2479 of 2018
and C.M.P.No.15220 of 2018

Annadurai (died)

1. Krishnaveni
2. Ammakannu
3. Malliga
4. Valarmathi
5. Indira
6. Patchai Ammal
7. Perma

... Petitioners

Vs.

1. Dhanam
2. Thirunavukarasu
3. Thenmozhi
4. Sivasankari

... Respondents

Prayer :- Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, to set aside the order and decretal order dated 02.04.2018 made in I.A.No.128 of 2018 in O.S.No.24 of 2012 on the file of the learned Additional Subordinate Judge, Tindivanam.

For Petitioners : No appearance

For Respondents : Mr.S.N.Subramani

ORDER

This Civil Revision Petition is directed as against the fair and decreetal order dated 02.04.2018 passed by the Additional Subordinate Judge, Tindivanam in I.A.No.128 of 2018 in O.S.No.24 of 2012, thereby dismissing the petition to recall D.W.5 & D.W.6.

2. The petitioners are the defendants and the respondents are the plaintiffs. The respondents filed suit in O.S.No.24 of 2012 for partition. After examining D.W.5 and D.W.6, the petitioners filed an application in I.A.No.128 of 2018 to recall D.W.5 and D.W.6 for further examination for the reason that they failed to put forth some vital questions to them. The trial Court dismissed the said petition, as against which the present Civil Revision Petition.

3. On perusal of records revealed that the petitioners have examined D.W.5 and D.W.6 as attested witnesses of the settlement deed dated 29.07.1998. In fact, D.W.5 and D.W.6 were summoned through Court and they filed their proof affidavit. They were also cross-examined by both

the parties in depth. They were not treated as hostile witnesses by the petitioners or the respondents. In fact, they were re-examined by the petitioners. Therefore, it is not at all permissible to recall the said witnesses to fill up the lacuna and the Court below rightly dismissed the petition. This Court finds no infirmity or illegality in the order passed by the Court below.

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

17.06.2021

Internet : Yes

Index : Yes/No

Speaking order/Non-speaking order

rts

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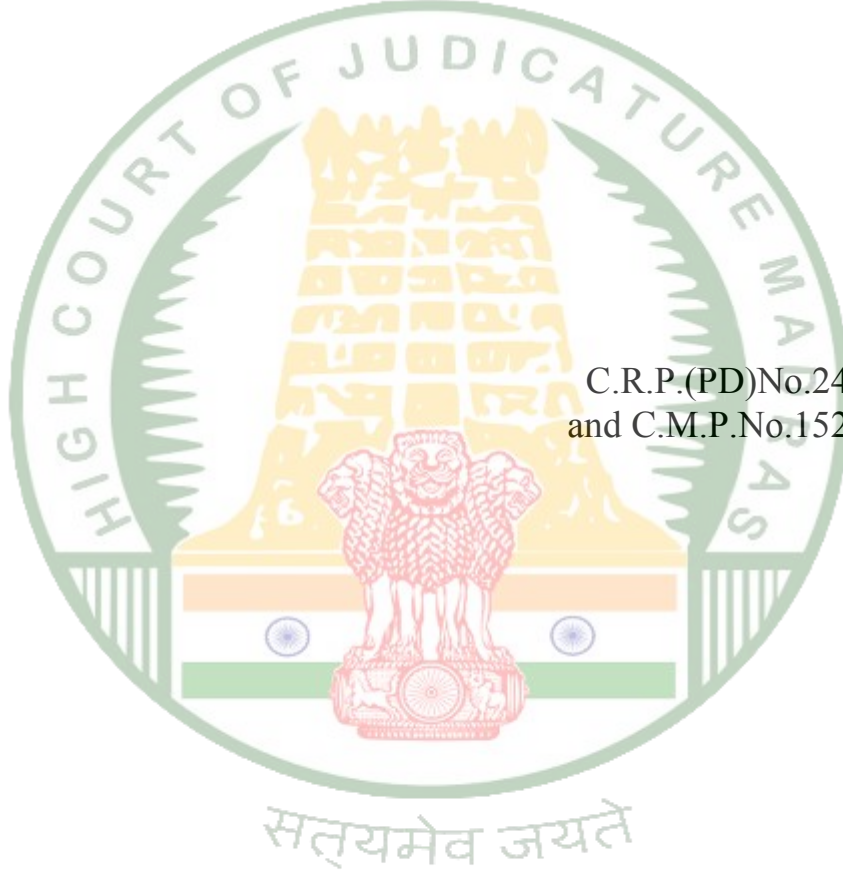
1. Additional Subordinate Judge,
Tindivanam.

2. The Section Officer,
V.R. Section,
Madras High Court,
Chennai.

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G.K.ILANTHIRAIYAN, J.

rts



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