

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2021

CORAM

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

CRP.NPD.Nos.708 of 2018 & 3480 of 2017 and
CMP.Nos.16180 of 2017 & 3684 of 2018

CRP.NPD.No.708 of 2018

Karpagam

..Petitioner

Vs.

1.Senthamarai
2.Murugan
3.Chenna Krishnan
4.Jayakumar

..Respondents

PRAYER:

The Civil Revision Petition is filed under Section 115 of CPC against the dismissal of IA.No.715 of 2016 in I.A.No.416 of 2013 in OS.No.354 of 2006 dated 27.07.2017 filed by the petitioner as under Order 1 Rule 10 of CPC.

WEB COPY

For Petitioner : Mr.V.Gunasekar

For Respondents

For R1 : Mr.K.Thiruvengadam
R2 & 3 : Notice served

CRP.NPD.No.3480 of 2017

V.Ponnusamy

..Petitioner

Vs.

1.Senthamarai
2.Murugan
3.Chenna Krishnan
4.Jayakumar

..Respondents

PRAYER:

The Civil Revision Petition is filed under Section 115 of CPC against the dismissal of IA.No.747 of 2016 in I.A.No.416 of 2013 in OS.No.354 of 2006 dated 27.07.2017 filed by the petitioner as under Order 1 Rule 10 of CPC.

For Petitioner : Mr.P.Parasasiva Doss

For Respondents : No Appearance

COMMON ORDER

These Civil Revision Petitions are filed against the dismissal of IA.Nos.715 & 747 of 2016 in I.A.No.416 of 2013 in OS.No.354 of 2006 dated 27.07.2017 on the file of the District Munsif Court, Harur, thereby dismissing the petitions to implead the petitioners as party to the proceedings.

2. In both the civil revision petitions, the petitioners are the proposed parties and the first respondent is the plaintiff and the

other respondents are the defendants. The first respondent filed suit for partition. The second respondent filed written statement stating that part of the property was already sold out by him. The first respondent is the daughter and the second respondent is the father. Even then, the first respondent did not take any step to challenge the alleged sale and also failed to implead the purchaser of the property. Thereafter, the suit was decreed by the judgment and decree dated 29.01.2011. Aggrieved by the same, the other respondents filed appeal suit and the judgment and decree passed by the trial court was confirmed.

3. On the strength of the decree, the first respondent filed petition for final decree in IA.No.416 of 2012. In the final decree application, the court below appointed Advocate Commissioner and when the Advocate Commissioner visited the property, the petitioner is being purchaser of part of the property from the second respondent herein came to understand about the preliminary decree. Immediately he filed petition to implead himself as party to the final decree. Insofar as CRP.No.708 of 2018 is concerned, the petitioner is the second wife of the second respondent and the property which stands in the name of the petitioner also subjected for partition. Therefore, she also filed petition to implead herself as party in the final decree application. The

court below dismissed for the reason that already preliminary decree was passed and also confirmed the appeal suit in AS.No.11 of 2011 on the file of the Sub Court, Harur. Therefore, without impleading the petitioners as party in the main suit, they cannot be impleaded as party in the final decree application, since the court cannot go beyond the preliminary decree which was also confirmed by the first appellate court.

4. Admittedly, the petitioner is purchaser and also the property stands in her name and as such they filed petition to implead themselves as party to the final decree proceedings. The petitioner in CRP.No.3480 of 2017 purchased part of the property from the second respondent herein. Therefore, to avoid multiplicity of proceedings, he can be impleaded as party and the trial court may consider while allotting share in respect of property, which was purchased in the year 1999 by the petitioner to be allotted in favour of the second respondent. Likewise, the petitioner in CRP.No.708 of 2018 may be impleaded as party and decide the issue whether the property stands in the name of the petitioner or not. It would also avoid multiplicity of proceedings.

5. In view of the above, both the civil revision petitions are allowed and the orders passed in IA.Nos.715 & 747 of 2016 in

I.A.No.416 of 2013 in OS.No.354 of 2006 dated 27.07.2017 on the file of the District Munsif Court, Harur are set aside. Consequently, connected miscellaneous petitions are closed. No order as to costs.

22.04.2021

Speaking/Non-speaking order

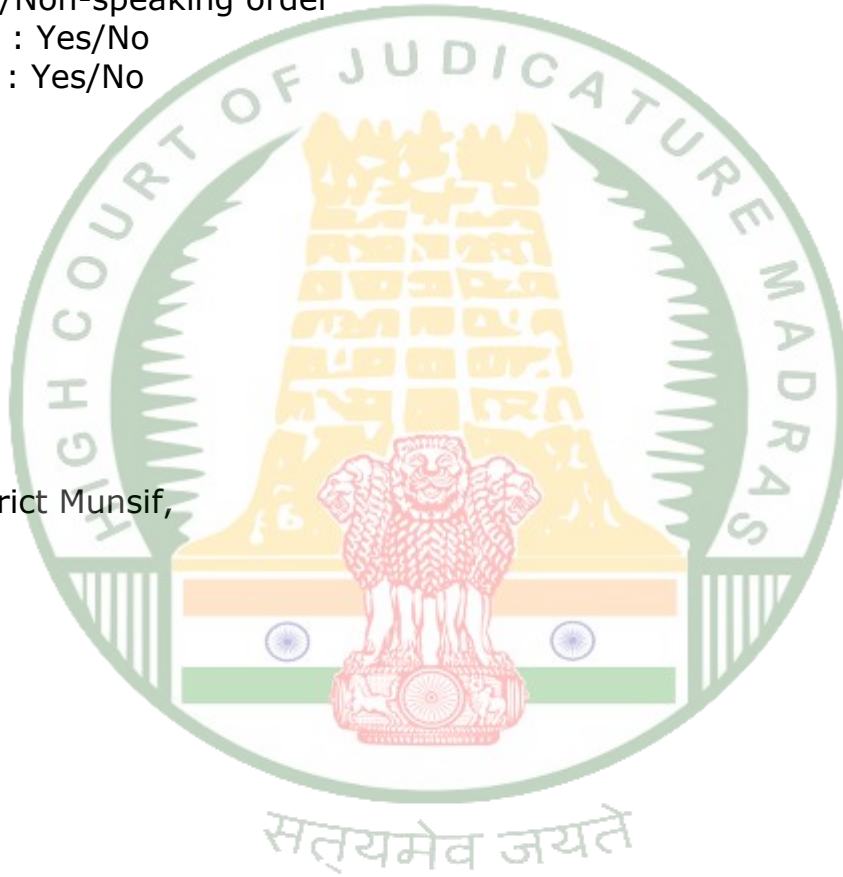
Index : Yes/No

Internet : Yes/No

lok

To

The District Munsif,
Harur



WEB COPY

G.K.ILANTHIRAIYAN,J.

lok



CRP.NPD.Nos.708 of 2018 & 3480 of 2017

WEB COPY

22.04.2021