

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.02.2021

C O R A M

THE HON'BLE MR. JUSTICE **KRISHNAN RAMASAMY**

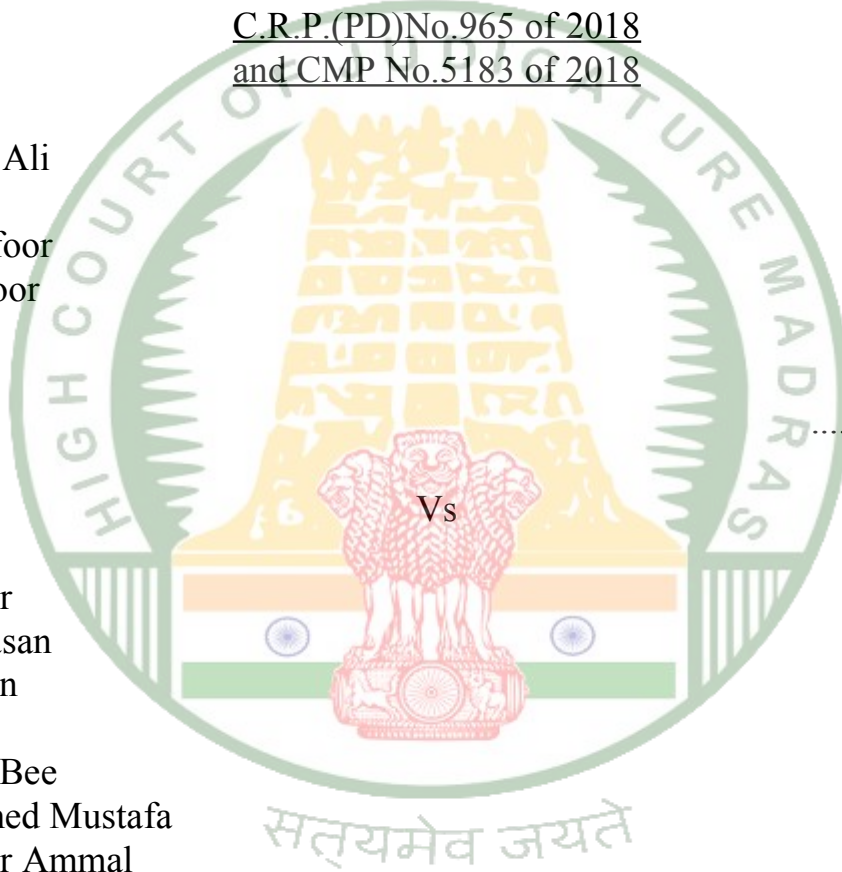
C.R.P.(PD)No.965 of 2018
and CMP No.5183 of 2018

- 1.Liyakath Ali
- 2.Jayanthi
- 3.Dilip Kafoor
- 4.Raj Gaffoor
- 5.Veronica
- 6.Amina
- 7.Rubiya

..... Petitioners

- 1.Abuthahir
- 2.Noorulhasan
- 3.Sulaimaan
- 4.Sabiya
- 5.Sulaiaka Bee
- 6.Mohammed Mustafa
- 7.Sikkandar Ammal
- 8.Rafiathul Fazriya
- 9.Thaslima
- 10.Abdul Kareem
- 11.Mohammed Sherif
- 12.Krishnarajulu

... Respondents



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Civil Revision Petition filed under Article 227 of the Constitution of India, prayed to set aside the fair and decreetal order dated 19.04.2017 passed in I.A.No.299 of 2017 in O.S.No.1303 of 2015 on the file of IV Additional District Munsif, Coimbatore and allow the same.

For Petitioner : Mr.M.Senthilkumaran

For Respondent : No appearance

ORDER

Challenging the fair and decreetal order passed in I.A.No.299 of 2017 in O.S.No.1303 of 2015 on the file of IV Additional District Munsif, Coimbatore the plaintiffs have filed the above revision.

2. The plaintiffs filed a suit in O.S.No.1303 of 2015 for declaration. The defendants 1 and 2 in O.S.No.1303 of 2015 have filed a petition under Order VII Rule 11 of Civil Procedure Code to reject the plaint. The reasonings given by the defendants 1 and 2 are the 1st plaintiff on his behalf and also on behalf of other plaintiffs executed a sale deed in favour of the 1st respondent by way of document No.749 of 2015 dated 08.01.2015 and the value of the property was mentioned in document No.749 of 2015 is Rs.70,02,600/-. The plaintiffs

pleaded that the sale was executed for a consideration of Rs.5,04,600/- in respect of item no.1 alone and also pleaded that the 1st defendant had fraudulently included entire properties.

3. The trial Court, after hearing both the parties, held that the plaintiffs executed sale deed in favour of the 1st defendant for a sale consideration of Rs.70,02,600/- and the suit has to be valued under Section 40 of the Tamil Nadu Court fee and Suit Valuation Act and since the plaintiffs had undervalued the suit for the purpose of evading court fee, it has directed the plaintiffs to correct the plaint and to value the suit relief under Section 40 of Tamil Nadu Court fee and Suit Valuation Act to the value of sale deed that is Rs.70,02,600/- and pay deficit court fee within two weeks. Challenging the said order, the plaintiffs filed the above revision.

4. Learned counsel for the revision petitioners/plaintiffs submitted that the sale consideration of the document No.749 of 2015 is only Rs.5,40,600/- and the plaintiffs entered into sale deed with the 1st defendant only in regard to item no.1 of the suit property for consideration of Rs.5,40,600/- and the

respondents have played a fraud by interpolating item Nos.2 to 8, 14 and 18 by removing certain papers in the sale deed as if the plaintiffs sold to 12 persons. The contention of the revision petitioners that he has sold only one item of property that is valued Rs.5,04,600/- and therefore contended that the plaintiffs are liable to pay the court fee only for the value of Rs.5,04,600/-

5. Learned counsel while concluding his arguments, submitted that this Court can direct the Court below to frame an issue with regard to the fraud that has been played by the 1st defendant in executing the sale deed by way of interpolation of pages.

6. In view of the above submissions, this Court is of the view that it would be appropriate to frame an issue with regard to the fraud played by the first defendant.

7. Accordingly, IV Additional District Munsif, Coimbatore is directed to frame an issue with regard to the alleged fraud, said to have been made by the first defendant, as stated by the plaintiffs, in executing the sale deed by way of

interpolation.

8. Therefore, without passing any order with regard to the other observations made by the Court below, this Civil Revision Petition is disposed of by remanding the matter to IV Additional District Munsif, Coimbatore for framing an issue with regard to the alleged fraud, said to have been made by the first defendant, as stated by the plaintiffs. No costs. Consequently, connected miscellaneous petition is closed.

12.02.2021

Index: Yes/No
Internet: Yes/No
Speaking order/Non-speaking order

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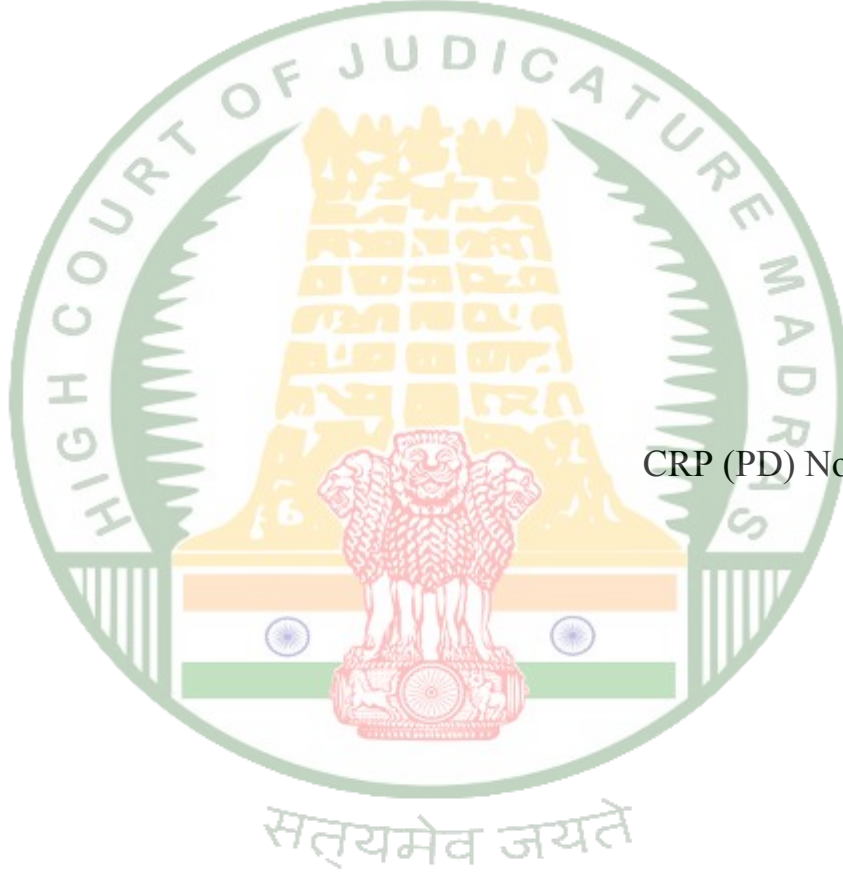
To:

The IV Additional District Munsif, Coimbatore

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KRISHNAN RAMASAMY,J.

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CRP (PD) No.965 of 2018

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