

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2021

CORAM

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

CRP.PD.No.1075 of 2014

and

MP.No.1 of 2014

1.Vilvanathan

2.Mukunthan

..Petitioners

Vs.

1.V.Lalaitha

2.Kasthuri

3.Valli

W/o D.Ravichandran

rep. by Power Agent

V.Sivachidambaram,

No.31, Rajaji Street, Cuddalore 606 003

..Respondents

PRAYER:

सत्यमेव जयते

The Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and final order dated 28.01.2014 passed in IA.No.330 of 2013 in OS.No.124 of 2010 on the file of the Additional District Munsif, Cuddalore.

For Petitioners : Mr.Sabarish,
for Mr.S.K.Rakhunathan

For Respondents
For R1 : Mr.R.Gururaj
R2 & 3 : Notice served

ORDER

The present Civil Revision Petition is arising out of fair and final order dated 28.01.2014 passed in IA.No.330 of 2013 in OS.No.124 of 2010 on the file of the Additional District Munsif, Cuddalore thereby dismissing the petition filed by the petitioners to stay all further proceedings in the suit filed by the respondent herein.

2. The learned counsel for the petitioners would submit that the petitioners already filed suit in OS.No.505 of 1992 on the file of the District Munsif Court, Cuddalore for declaration and recovery of possession in respect of the suit schedule property. Though the trial court decreed the suit, in the appeal reversed and the suit filed by the petitioners was dismissed. Aggrieved by the same, the petitioners preferred second appeal and it is pending in SA.No.818 of 2000 on the file of this Court. While being so, the respondents filed another suit for injunction in respect of the very same property. Therefore, the petitioners filed petition under Section 10 of CPC to stay all further proceedings of the suit till the disposal of the second appeal in SA.No.818 of 2000.

3. The learned counsel for the respondents would submit that after dismissal of the said petition, the plaintiffs side evidence was closed and the matter is posted for defendants side evidence. At that juncture, the petitioners also filed petition to receive additional written statement and it is pending. Therefore they very much proceeded with the trial before the trial court. Further he would submit that the suit property is completely different from the suit filed by the petitioners in OS.No.505 of 1992 and the suit filed by the respondents in OS.No.124 of 2010. The total extent also differs and as such the trial court rightly dismissed the petition and proceeded with the trial. Now the trial is proceeded in OS.No.124 of 2010.

4. On perusal of the plaint schedule in both the suits in OS.No.505 of 1992 and OS.No.124 of 2010, the schedule of the property is different one and extent also different. However, the petitioners are proceeding with the trial before the trial court. Therefore, this Court finds no irregularity or infirmity in the order passed by the court below.

5. Accordingly, this civil revision petition is dismissed. Consequently, connected miscellaneous petition is closed. No order as to costs.

02.02.2021

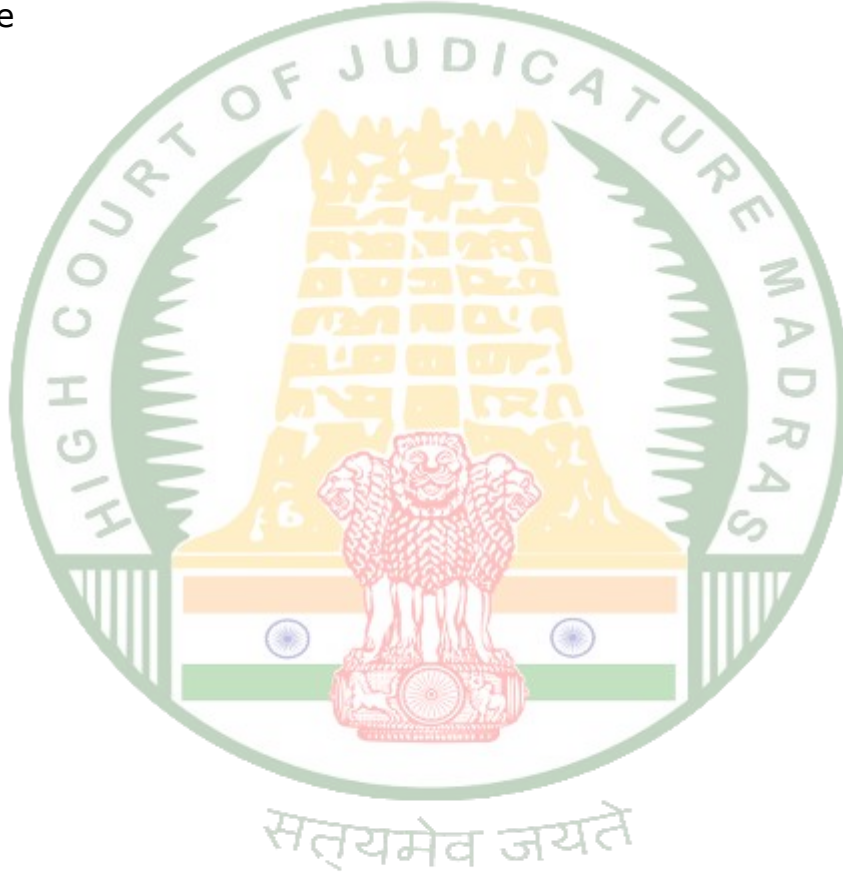
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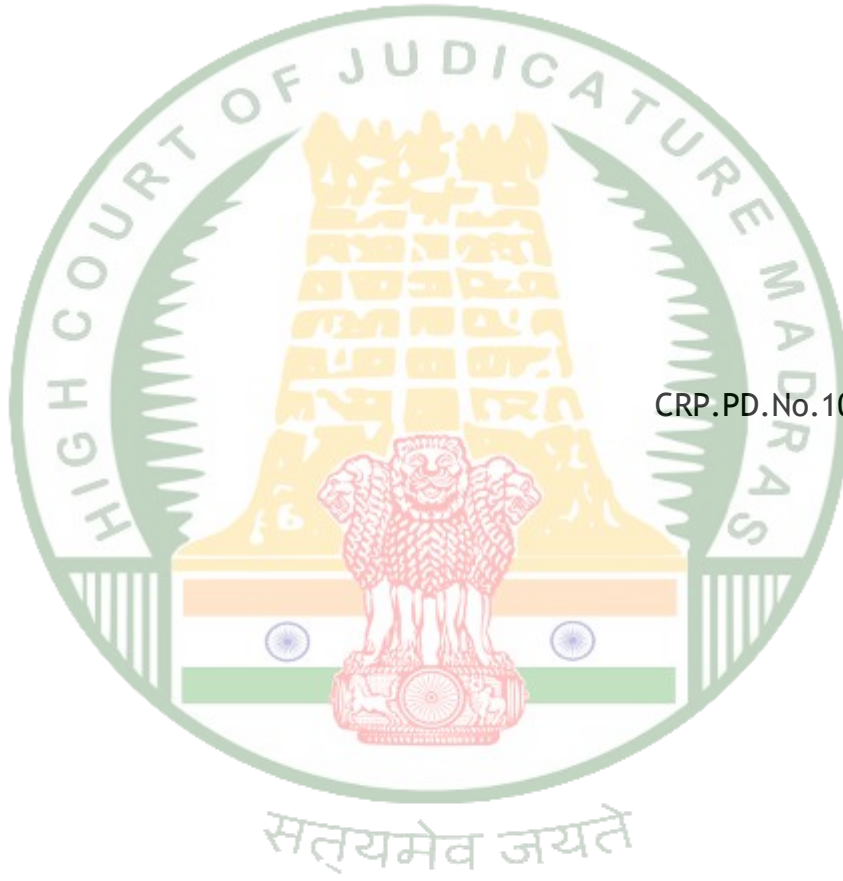
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G.K.ILANTHIRAIYAN,J.

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