

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.08.2021

CORAM

THE HON'BLE Mr. JUSTICE G.CHANDRASEKHARAN

**C.R.P.(PD) No.2633 of 2019
and C.M.P.No.17432 of 2019**

Sri Guruvayurappan Asthika Samajam

Represented by its Honorary Secretary

Plot No.21, 2nd Main Road, Ram Nagar

Nanganallur, Chennai – 600 061.

...Petitioner

Vs.

Smt K. Vijayalakshmi

...Respondent

Prayer:- Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the order and decreetal order in I.A.No.26 of 2019 in O.S.No. 112 of 2014 passed by the learned Sessions Judge, Mahila Court, Kancheepuram District at Chengalpattu.

For Petitioner : Mr.S.Natana rajan

For Respondent : Mr.N.Sidharthan

WEB ORDER COPY

This Civil Revision Petition is filed, to set aside the fair order and decreetal order in I.A.No.26 of 2019 in O.S.No. 112 of 2014 passed by the

learned Sessions Judge, Mahila Court, Kancheepuram District at Chengalpattu.

2.I.A.No.26 of 2019 was filed under Order 7 Rule 14(3) of CPC for receiving the documents by condoning the delay. The documents which are filed in I.A.No.26 of 2019 are,

(i) Letter of authorization issued by the plaintiff Samajam to and infavour of one Mr.R.Vaidyanathan for the purpose of deposing evidence in this case.

(ii) Memorandum and By-Laws of the plaintiff Samajam.

(iii) Report of Assistant Settlement Officer, Thiruvannamalai dated 12.05.1988.

(iv) Patta No.141 issued by the Assistant Settlement Officer, Tiruvannamalai dated 07.12.1988.

(v) Town Survey Field Register dated 16.10.1995 issued by Alandur Municipality to the plaintiff Samajam,

This petition was resisted by the respondent. The learned Sessions Judge, Mahila Court, Kancheepuram District at Chengalpattu, after hearing both sides dismissed the petition, on the ground that there is no pleadings with

regard to the above mentioned documents in the plaint. Against the dismissal order dated 04.06.2019, the present Civil Revision Petition is filed.

3.The learned counsel for the petitioner submitted that the petitioner/plaintiff is a Hindu Religious Institution, registered under the Societies Registration Act. The suit property was settled in favour of the petitioner on 19.11.1965 and the petitioner is the owner of the suit property. There was a previous litigation in O.S.No.174 of 1989 before the learned Sub-Judge, Poonamallee, against the vendor of the respondent/defendant and the suit was decreed on 14.02.1996. The respondent has no right in the suit property, however, the she encroached the suit property and in possession. Therefore, the suit in O.S.No.112 of 2014 was filed by the petitioner for recovery of possession.

4.Pending suit, the petitioner filed an application in I.A.No.26 of 2019 to receive the documents mentioned above. The documents sought to be produced, except, the letter of authorization and memorandum and by laws of petitioner/plaintiff samajam, are public documents. Which are necessary for proving the title of the petitioner. However dismissal of the petition on the ground that there is no pleadings with regard to these documents is not

correct. Therefore, he prays for setting aside the order dated 04.06.2019 in I.A.No.26 of 2019 passed by the learned Sessions Judge, Mahila Court, Chengalpattu, and allow this Civil Revision Petition.

5.In reply, the learned counsel for the respondent submitted that the interlocutory application is filed belatedly and of course there is no pleadings in the plaint with regard to the documents, which are sought to be produced by the petitioner. Hence, the said petition is devoid of merits, and it has been rightly dismissed by the learned trial Judge. Therefore, the learned counsel for the respondent prayed for sustaining the order of the learned Sessions Judge, Mahila Court, Chengalpattu.

6.Considering the rival submissions, the suit in O.S.No.112 of 2014 is filed for the aforesaid reliefs against the respondent/defendant. It is specifically pleaded in the plaint that the suit property was settled in favour of the petitioner on 19.11.1965 and therefore the petitioner is the owner and on that basis the present suit is filed. The learned counsel for the petitioner also drew my attention to the written statement filed by the respondent, wherein, it is admitted by the respondent that the possession and enjoyment of the suit property by the respondent. In support of this contention, the learned counsel

for the petitioner drew attention of this Court to the paragraph No.5 of the counter filed by the respondent, which runs as follows:-

"5.....

.....

This defendant has written a letter on 23.01.2006 to the plaintiff that she was prepared to buy the suit "B" schedule property for a reasonable price. Hence, admittedly this defendant has not delivered the possession of the suit property to the plaintiff on 02.01.2006, i.e., on the date of alleged delivery."

7.This particular admission, according to the learned counsel for the petitioner shows that the petitioner's title in the suit property was admitted by the respondent. Therefore, the respondent cannot have any objection for receiving the documents now sought to be produced by the petitioner. As extracted above, it is clear from the written statement filed by the respondent that she expressed her willingness to buy the "B" schedule property from the petitioner through the letter dated 23.01.2006. It has been rightly pointed out by the learned counsel for the petitioner that the documents 3 to 5 are public documents which will establish its right over the

suit property. Item Nos.1 and 2 of the documents relate to petitioner's samajam. There are general averments in the plaint that the petitioner is the owner of the suit property through settlement deed dated 19.11.1965. In support of this claim, the petitioner is entitled to produce other documents i.e., Patta No.141 issued by the Assistant Settlement Officer, Tiruvannamalai dated 07.12.1988 and Town Survey Field Register dated 16.10.1995 issued by Alandur Municipality to the plaintiff Samajam.

8.The parties should be given a reasonable opportunities before the trial Court for producing oral and documentary evidence. If that opportunity is shut at the threshold there is a possibility of negating substantial justice and thus, in view of this matter this Court finds reason to set aside the order dated 04.06.2019 in I.A.No.26 of 2019 in O.S.No. 112 of 2014 passed by the learned Sessions Judge, Mahila Court, Kancheepuram District at Chengalpattu.

9.Accordingly, order dated 04.06.2019 in I.A.No.26 of 2019 in O.S.No. 112 of 2014 passed by the learned Sessions Judge, Mahila Court, Kancheepuram District at Chengalpattu, is hereby set aside and this Civil Revision Petition is allowed. Further, the learned Sessions Judge, is directed

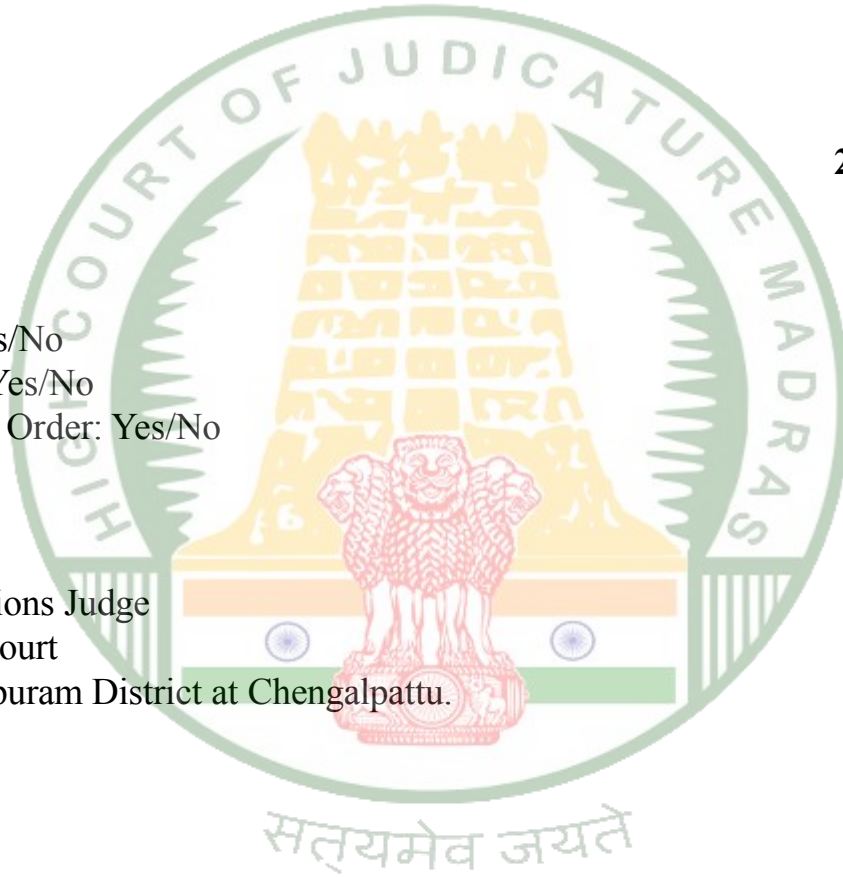
to receive the documents, subject to proof and relevancy and proceed with the case on merits and in accordance with law. No costs. Consequently connected miscellaneous petition is closed.

Jer

23.08.2021

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

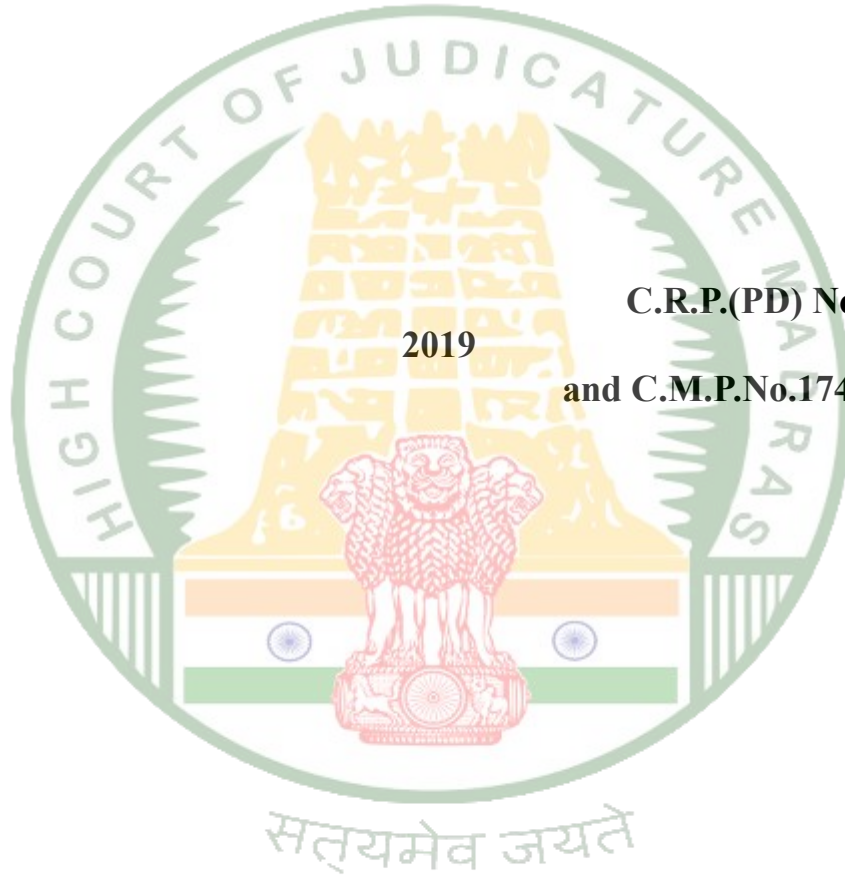
To
The Sessions Judge
Mahila Court
Kancheepuram District at Chengalpattu.



WEB COPY

G.CHANDRASEKHARAN.J.

Jer



**C.R.P.(PD) No.2633 of
2019
and C.M.P.No.17432 of 2019**

WEB COPY

23.08.2021