

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.03.2021

CORAM

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

C.R.P.(PD).No.2540 of 2017
and C.M.P.No.12066 of 2017

Sridharan

.... Petitioner

Vs.

1. K.Kanagaraj
2. Amirtham
3. Jayaprakash
4. Diwakaran @ Suresh
5. Muthammal
6. K.Velumani
7. The Official Receiver
District Court Compound,
Coimbatore-18.
8. Ramasamy

... Respondents

Prayer :- Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order dated 06.02.2017 passed in I.A.No.348 of 2016 in O.S.No.459 of 2011 on the file of the learned Principal Subordinate Judge, Coimbatore.

For Petitioner : No appearance

For Respondents : No appearance

ORDER

This Civil Revision Petition is directed as against the order dated 06.02.2017, passed by the learned Principal Subordinate Judge, Coimbatore, in I.A.No.348 of 2016 in O.S.No.459 of 2011, thereby dismissing the petition to call for the entire bundle in I.P.No.5/99 from the file of the Official Receiver of Coimbatore.

2. The petitioner is the plaintiff and the respondents are the defendants. The petitioner filed suit in O.S.No.459 of 2011 for specific performance. When the case was posted for cross-examination of P.W.1, the fifth respondent herein filed an insolvency petition in I.P.No.5 of 1999 as against the first respondent on the file of the learned I Additional Subordinate Judge, Coimbatore. The petitioner paid the amount to the fifth respondent herein and thereafter it was withdrawn. Subsequently, the fifth respondent filed memo to withdraw the insolvency petition, but the seventh respondent viz., the Official Receiver did not record the said memo. The seventh respondent auctioned the suit property without considering the said fact in the I.P. proceedings. Further the seventh respondent did not serve the

public notice for the auction and did not follow the procedure for auctioning property. Though the petitioner objected by his written objection, the seventh respondent ignored the same. At the time of cross-examination of D.W.1 viz., the eighth respondent herein, the petitioner raised queries in respect of the above facts for which, the eighth respondent denied the same. Therefore, the petitioner wanted those details of records in I.P.No.5 of 1999 and filed this petition to call for the entire bundle. Since the trial Court dismissed the said petition, the present Civil Revision Petition has been filed.

3. Admittedly, the petitioner did not apply for certified copies of those documents from the office of the Official Receiver, Coimbatore. If the petitioner applied for the same and if the Official Receiver refused to furnish the same, then the petitioner can very well file the petition under Section 75 of C.P.C., to call for the entire bundle. Therefore, the Court below rightly dismissed the petition and this Court finds no illegality or infirmity in the order passed by the Court below.

4. Accordingly, this Civil Revision Petition stands dismissed.

There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

31.03.2021

Internet : Yes

Index : Yes/No

Speaking order/Non-speaking order

rts



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To

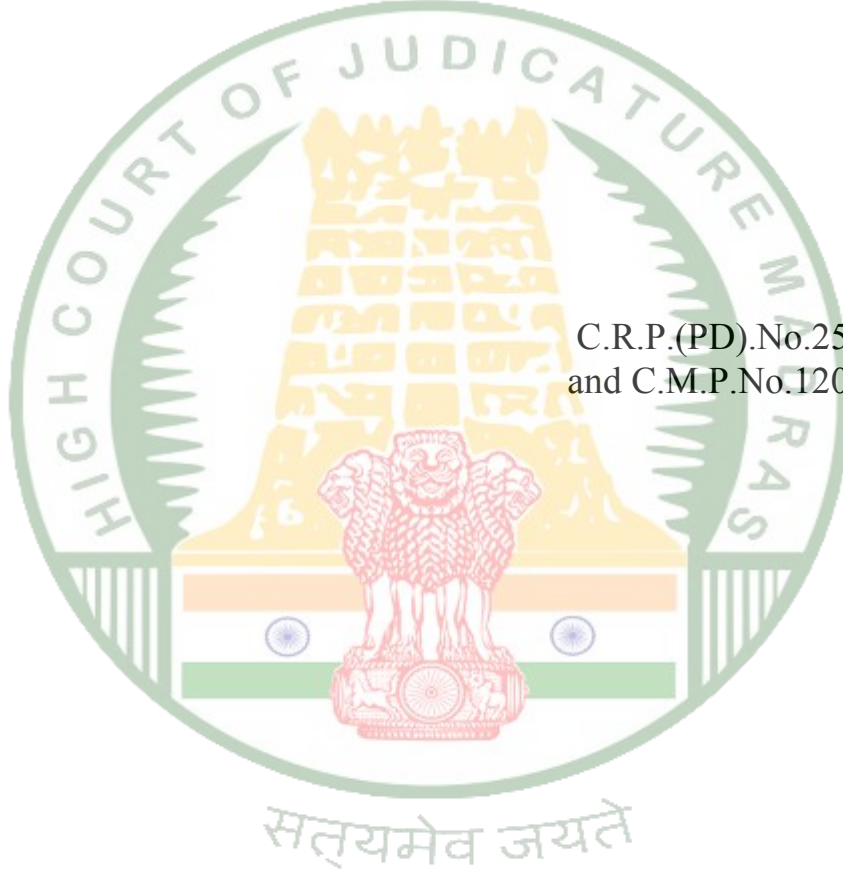
1. The Principal Subordinate Judge,
Coimbatore.
2. The Section Officer,
V.R. Section,
Madras High Court,
Chennai.



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G.K.ILANTHIRAIYAN, J.

rts



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