

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2021

CORAM

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

CRP.PD.No.751 of 2017
and CMP.No.3690 of 2017

Backyalakshmi

..Petitioner

Vs.

1.L.Ramya
2.L.Priya
3.L.Thirumuthy
4.Chandrasekar

..Respondents

PRAYER:

The Civil Revision Petition is filed under Article 227 of the Constitution of India against order dated 30.09.2016 passed by the learned Subordinate Judge, Tambaram in IA.No.159 of 2015 in OS.No.88 of 2008.

For Petitioner : No appearance

For Respondents

For R4 : Mr.V.Chandrakanthan

R1 to 3 : notice served

ORDER

This civil revision petition is filed against the order dated 30.09.2016 passed by the learned Subordinate Judge, Tambaram in IA.No.159 of 2015 in OS.No.88 of 2008, thereby dismissing the petition to set aside the suit proceedings.

2. The petitioner is the first defendant and fourth respondent is the plaintiff. The respondent filed suit for specific performance. While pending the suit, the petitioner and the respondents 1 to 3 filed petition to set aside all further proceedings of the main suit for the reason that the suit property and other items of the properties allotted to the petitioner's husband herein. Subsequently, her husband died on 01.03.2006. One of the defendant in the partition deed between the petitioner's husband and others in OS.No.885 of 1994 was set exparte. Therefore, the said person filed petition to set aside the exparte decree with condone delay petition in IA.Nos.810 of 2012 and 811 of 2012 in OS.No.885 of 1984 on the file of the District Munsif Court, Tambaram. Therefore, till the disposal of the said IA, the present suit proceedings to be stayed.

3. On perusal of the records revealed that the fourth respondent herein entered into agreement for sale with the petitioner's husband who derived title to the suit property by way of partition suit in OS.No.885 of 1984. Final decree was passed and accordingly petitioner's husband was allotted the suit property and thereafter he entered into an agreement for sale with the fourth respondent herein. After period of 20 years, one of the defendant filed petition to set aside the exparte decree, that too with condone delay of 20 years to

set aside the exparte decree passed in OS.No.885 of 1984. Therefore, the said application is nothing to do with the present suit and it cannot be stayed and as such the trial court rightly dismissed the petition. Therefore, this Court finds no irregularity or infirmity in the order passed by the court below.

4. Accordingly, this civil revision petition is dismissed. However, by filing the present civil revision petition, now suit has been stayed for four years. Therefore, the trial court is directed to dispose of the suit within a period of six months from the date of receipt of copy of this order. Consequently, connected miscellaneous petition is closed. No order as to costs.

01.04.2021

Speaking/Non-speaking order
Index : Yes/No
Internet : Yes/No
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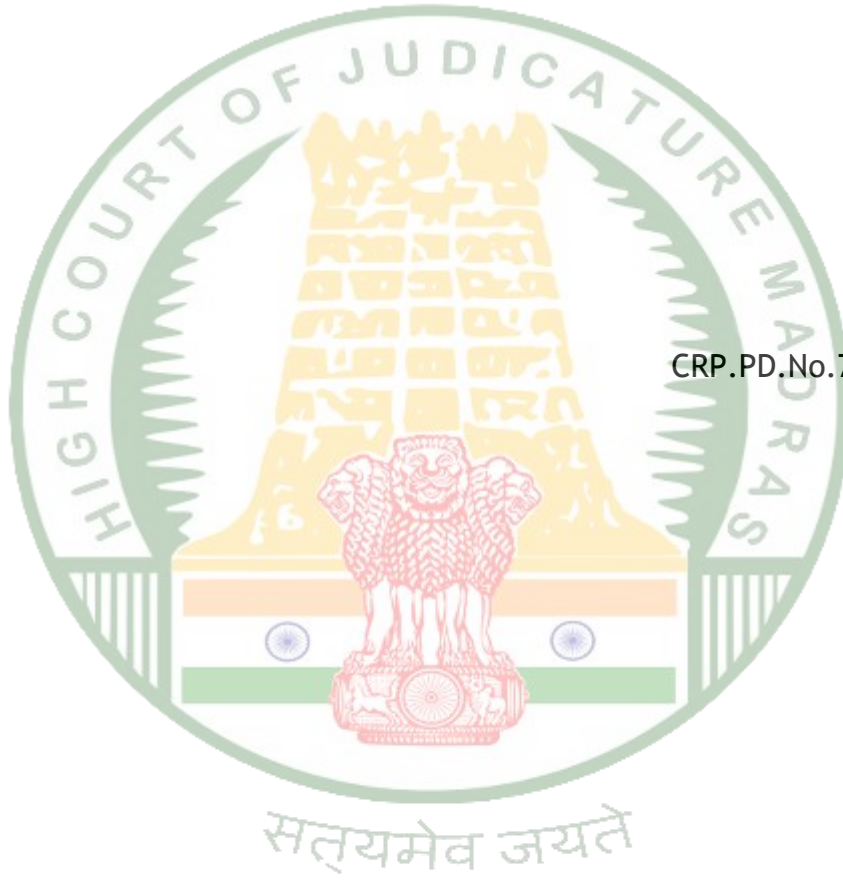
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G.K.ILANTHIRAIYAN,J.

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To

The Subordinate Judge,
Tambaram



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