

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.03.2021

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CRP(PD).Nos.851 and 852 of 2017

**and
CMP.No.4271 of 2017**

CRP(PD).No.851 of 2017

Selvanayagi

... Petitioner

Vs.

A.Munivel

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to allow the above Civil Revision Petition by setting aside the fair and decretal order dated 14.09.2016 passed in I.A.No.333 of 2016 in O.S.No.265 of 2010 on the file of the Principal Sub-Court, Chengalpattu.

For Petitioner : Mr.K.Govi Ganesan

For Respondent : M/s.Ananthi for
M/s.Nalini

CRP(PD).No.852 of 2017

Selvanayaki

... Petitioner

Vs.

A.Munivel

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to allow the above Civil Revision Petition by setting aside the fair and decretal order dated 14.09.2016 passed in I.A.No.334 of 2016 in O.S.No.265 of 2010 on the file of the Principal Sub-Court, Chengalpattu.

For Petitioner : Mr.K.Govi Ganesan

For Respondent : M/s.Ananthi for
M/s.Nalini

COMMON ORDER

CRP(PD).No.851 of 2017 is directed as against the fair and decretal order passed in I.A.No.333 of 2016 in O.S.No.265 of 2010 dated

14.09.2016 on the file of the learned Principal Sub-Judge, Chengalpattu, thereby, dismissing the petition to re-open the evidence on the side of the defendants.

2. CRP(PD).No.852 of 2017 is directed as against the fair and decretal order passed in I.A.No.334 of 2016 in O.S.No.265 of 2010 dated 14.09.2016 on the file of the learned Principal Sub-Judge, Chengalpattu, thereby, dismissing the petition to re-call D.W.2 for further cross examination.

3. In both Civil Revision Petitions, the petitioner is the plaintiff and the respondent is the second defendant. The petitioner filed a suit for declaration, recovery of possession and mandatory injunction. When the suit was posted for cross examination of D.W.2, the petitioner's counsel could not be present for cross examination due to his ill health. However, the trial Court closed the evidence of defendants and posted the matter for arguments. Immediately, the petitioner filed petitions to re-open and re-call of D.W.2. The petitioner due to typographical error, wrongly stated as D.W.1 instead of D.W.2. Only on that ground, the Court below dismissed

the petitions for re-open and re-call of D.W.2.

4. On a perusal of the affidavit filed in support of the re-open and re-call petitions, the petitioner categorically stated that when the suit was posted for cross examination of D.W.2 on 29.06.2016 his counsel was absent due to his ill health. Therefore, due to typographical error, the petitioner wrongly mentioned as D.W.1 instead of D.W.2.

5. Considering the above, these Civil Revision Petitions are allowed and the orders passed in I.A.Nos.333 and 334 of 2016 in O.S.No.265 of 2010 respectively, dated 14.09.2016 are hereby set aside. The trial Court is directed to fix the date for cross examination of D.W.2 on payment of costs Rs.2,000/- to the respondent herein. If the petitioner failed to cross examine of D.W.1 on the date fixed by the trial Court, the trial Court is directed to proceed with the suit in accordance with law. Consequently, the connected Miscellaneous Petition is closed.

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Speaking/Non-speaking order

Index : Yes/No

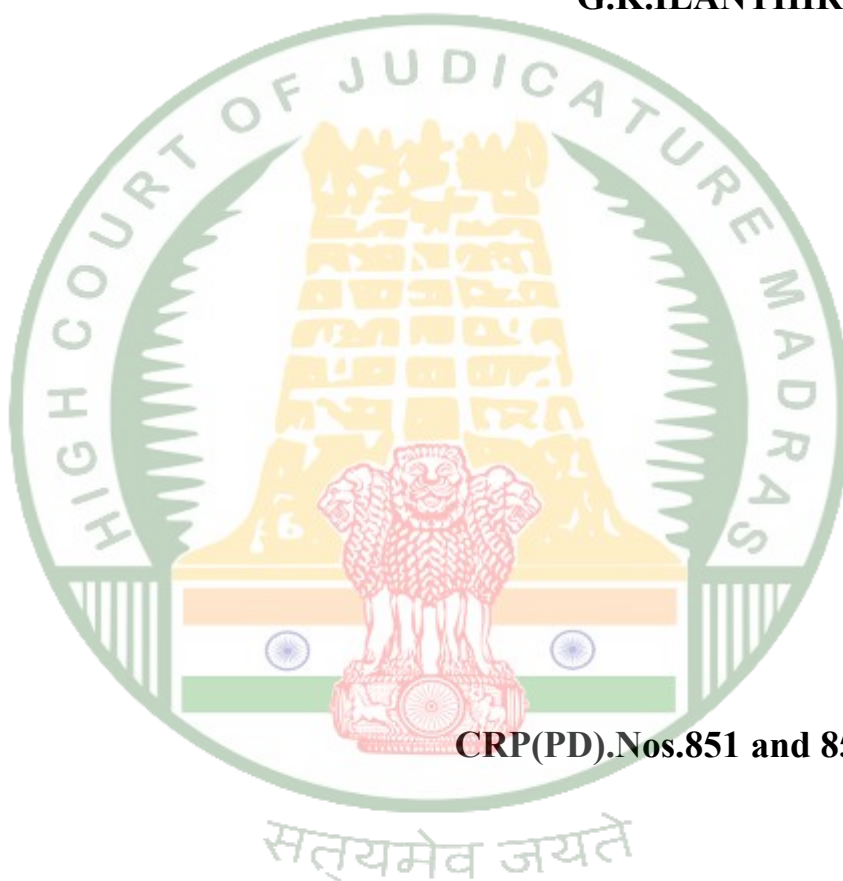
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To

1. The Principal Sub-Judge, Chengalpattu.
2. The Section Officer,
V.R.Section, High Court of Madras.

G.K.ILANTHIRAIYAN,J.

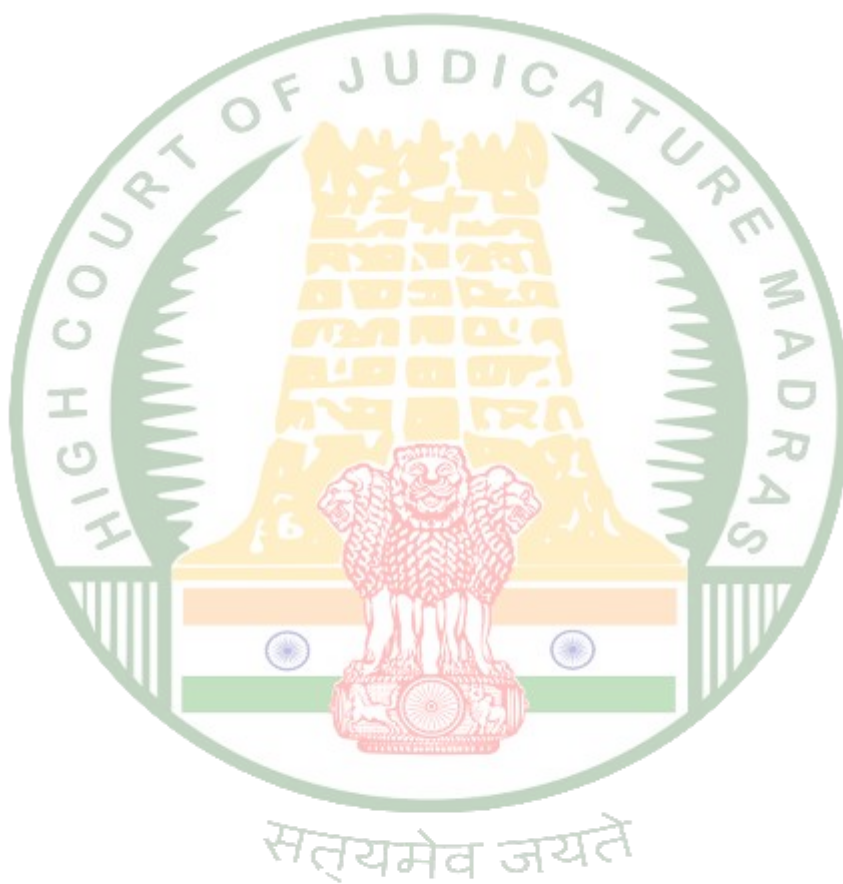
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