

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.03.2021

C O R A M

THE HON'BLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

C.R.P.(NPD) Nos.4197 of 2019 and 439 of 2020
and
C.M.P. No.2297 of 2020

Mrs. Jadaiammal (Died)

1. Smt. Govindammal W/o. Ganesan,

2. T.S. Sundaresan,

... Petitioners

Vs.

T.K. Srinivasan (Died)

1. Mrs. S. Muthabigai,

2. Uma Maheswari,

3. S. Kumar,

4. S. Shanthi,

5. P. Latha,

6. Tamilselvi

... Respondents

Common Prayer: These Civil Revision Petition filed under Section 115 of CPC seeking for to set aside the order dated 30.01.2019 passed in I.A. No.22 of 2017 in O.S. No.389 of 2008 and order dated 30.09.2019 passed in E.A. No.1 of 2019 in E.P. No.2 of 2016 in O.S. No.389 of 2008 on the file of District Munsif, Ponneri.

For Petitioners ... Mr.S. Krishnasamy

For Respondents ... Mr. P. Chandrasekar

COMMON ORDER

These Civil Revision Petition under Section 115 of CPC have been filed seeking for to set aside the order dated 30.01.2019 passed in I.A. No.22 of 2017 in O.S. No.389 of 2008 and order dated 30.09.2019 passed in E.A. No.1 of 2019 in E.P. No.2 of 2016 in O.S. No.389 of 2008 on the file of District Munsif, Ponneri.

2. The brief facts of the case are as follows:

The suit property which is a house and site in Gramanatham S.No.88/1, measuring to an extent of 6710 Sq.ft in Thirupaalaivanam Village, Ponneri TK. is belonged to Smt. Govindammal W/o. Late Kannappa Mudaliyar who died in the year 1981. During her life time, she orally sold the suit property to her sister Smt. Jadiyahammal in the year 1974 and from the said Jadiyahammal, the 1st petitioner herein purchased the suit property under a registered sale deed dated 07.08.2007 bearing document no.8387 of 2007 on the file of the Sub-Registrar, Ponneri.

Thereafter, only legal heir of the original owner namely Mr. T.K. Srivivasn has filed a suit in O.S. No.389 of 2008 on the file of the learned District Munsif, Ponneri against the defendants/petitioners herein for declaration of his title over the Suit schedule property, recovery of possession, for declaration that the sale deed dated 07.08.2007 is null and void and permanent injunction from encumbering with the suit property. The suit was decreed exparte on 03.04.2013. Thereafter, the plaintiff/legal heir of the Original owner namely, T.K. Srinivasan died intestate leaving behind his wife, his son and four daughters who are respondents herein. They filed E.P. No.2 of 2016 on the file of the District Munsif, Ponneri and obtained an exparte order of delivery dated 11.10.2018. Against the aforesaid order, the petitioners herein filed E.A. No.1 of 2019 to condone the delay of 69 days in filing application to set aside the same and it was dismissed on 30.09.2019. Further, the petitioners have filed I.A.No.22 of 2016 to condone the delay of 1084 days in seeking to set aside the exparte decree dated 03.04.2013. The same was dismissed by order 30.01.2019. Being aggrieved, the petitioners have filed these Civil Revision petitions.

2. When the matter taken up for final disposal, the learned counsel appearing for both sides jointly submitted that based on the memo of compromise entered into between both parties, the matter is amicably settled out without any further adjudication as the respondents undertake not to enforce the exparte decree dated 03.04.2013 and withdraw E.P. No.2 of 2016 in O.S. No.389 of 2008 on the file of the District Munsif, Ponneri. In the memo of compromise, both parties have signed along with their respective counsel. The said Memo of compromise reads as under:

1. The first petitioner shall pay a sum of Rs.7 Lakh to the respondents towards the sale price of the suit property as full and final settlement and accordingly, on this day the 1st petitioner has paid the entire said sum of Rs.7 Lakh to the respondents herein and the receipt of the said sum of Rs.7 Lakh, the respondents herein doth hereby admits and acknowledges.

2. Since the respondents have received the entire sale price of the suit property, they ratify the sale deed dated 07.08.2007.

3. Since the entire matter is amicably settled between the petitioners and the respondents, the respondents undertake not to enforce the exparte decree dated

03.04.2013 in O.S. No.389 of 2008 on the file of the Learned District Munsif, Ponneri and to withdraw the E.P. No.2 of 2016 is now pending on the file of the Learned District Munsif, Ponneri.

4. By recording the aforesaid Memo of Compromise entered into between both parties and submissions made by the counsel appearing for both parties, memo of compromise shall form part of the record and the parties are directed to adhere the aforesaid terms and conditions accordingly.

5. In the result, these Civil Revision petitions are disposed of. Consequently, connected miscellaneous petition is closed if any. There shall be no order as to costs.

सत्यमेव जयते

01.03.2021

Lbm

Index: Yes/No.

Speaking/Non-Speaking order

Internet: Yes/No.

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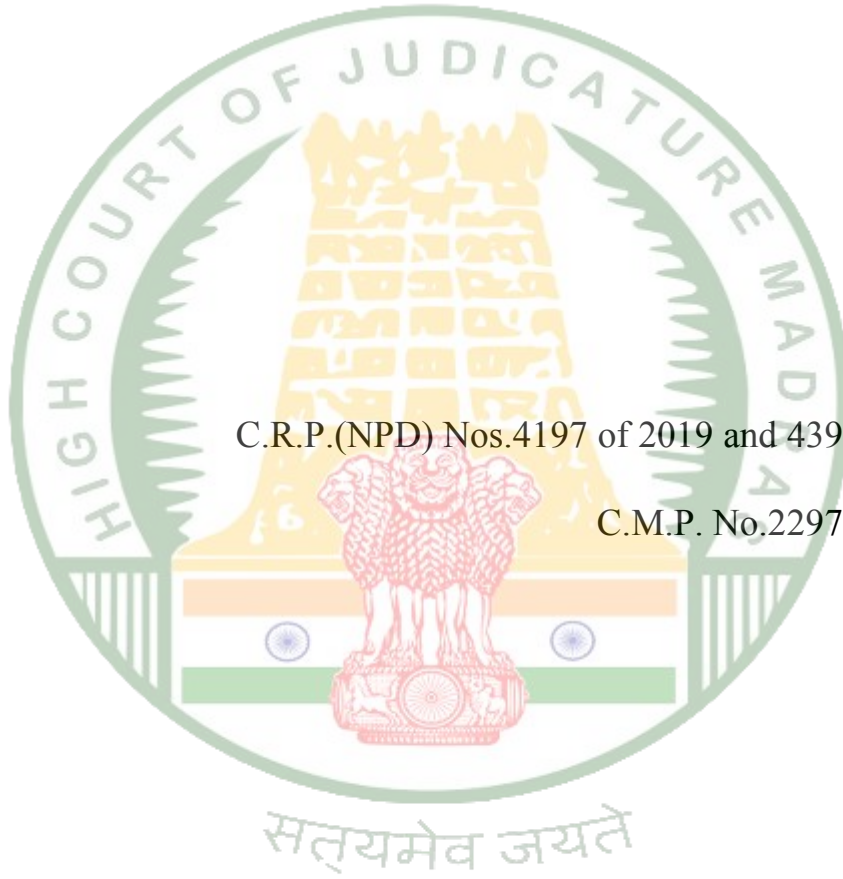
The District Munsif
Ponneri

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V.BHAVANI SUBBAROYAN, J.,

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