

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2021

CORAM

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

C.R.P.(NPD)No.3023 of 2018  
and C.M.P.No.17729 of 2018

Selvamani

... Petitioner

Vs.

1. Sivagami
2. Maruthamuthu
3. Ganesan
4. Sengottaiyan
5. Marakkal
6. Jothimani
7. Kannammal
8. Eswari

... Respondents

**Prayer :-** Civil Revision Petition is filed under Section 115 of C.P.C., to set aside the fair and decreetal order dated 08.01.2018 made in I.A.No.341 of 2017 in O.S.No.122 of 2015 on the file of the learned District Munsif Court, Sankari.

For Petitioner : Mr.N.Manokaran

For Respondents

For R3 & R4 : Mr.A.Srulmozhi

For R1, R2 &  
R5 to R8 : No appearance

**ORDER**

This Civil Revision Petition has been filed as against the fair and decreetal order dated 08.01.2018 passed by the learned District Munsif, Sankari, in I.A.No.341 of 2017 in O.S.No.122 of 2015, thereby dismissing the petition seeking permission withdrawal of suit with liberty to file fresh suit.

2. The petitioner is the plaintiff and the respondents are the defendants. The petitioner filed suit in O.S.No.122 of 2015 for partition. While pending the suit, the petitioner filed petition in I.A.No.341 of 2017 to withdraw the suit with liberty to file fresh suit. The Court below dismissed the said petition, as against which the present Civil Revision Petition.

3. It seen from the records that the petitioner stated there are lot of discrepancies in the suit and therefore he filed the present petition to withdraw the suit with liberty to file a fresh suit. It is settled proposition of law that the plaintiff is not permitted to withdraw the suit with liberty to file

fresh suit on the same cause of action. However, the petitioner is permitted to withdraw the suit with liberty to file fresh suit with fresh cause of action.

4. With the above observations, the Civil Revision Petition stands disposed of. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

30.07.2021

Internet : Yes

Index : Yes/No

Speaking order/Non-speaking order

rts



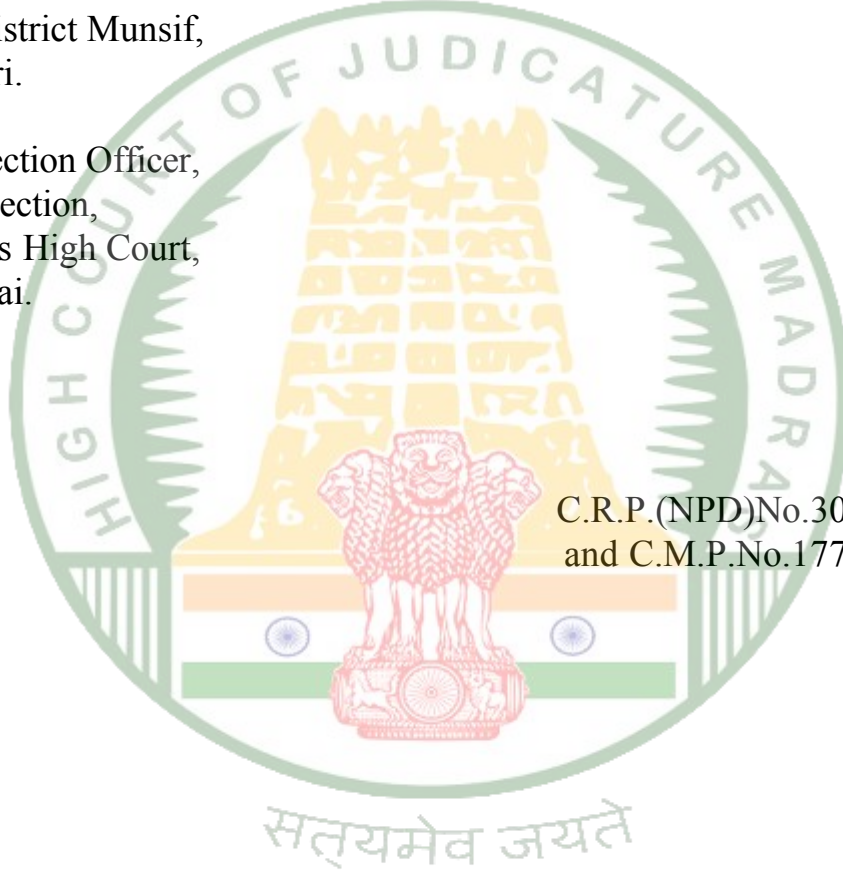
WEB COPY

**G.K.ILANTHIRAIYAN, J.**

rts

To

1. The District Munsif,  
Sankari.
2. The Section Officer,  
V.R. Section,  
Madras High Court,  
Chennai.



C.R.P.(NPD)No.3023 of 2018  
and C.M.P.No.17729 of 2018

WEB COPY

30.07.2021