

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.07.2021

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

**C.R.P (PD).No.3983 of 2018
and
C.M.P.No.22073 of 2018**

R.Loganathan

... Petitioner

Vs.

1. S.Gopu
2. A.S.Babu

3. The Branch Manager,
State Bank of India,
State Bank Premises,
Thatchur Road, Arani,
Thiruvannamalai District.

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decretal orders dated 31.10.2018 passed in I.A.No.58 of 2018 in O.S.No.49 of 2017 on the file of the Additional District and Sessions Court (Fast Track Court), Arani (O.S.No.44 of 2013 on the file of the District Court, Thiruvannamalai) in so far as the same are against the petitioner and allow the said I.A. as prayed for.

For Petitioner : Mr.P.Mani

For Respondents : No Appearance

ORDER

This Civil Revision Petition is filed as against the fair and decretal order passed in I.A.No.58 of 2018 in O.S.No.49 of 2017 dated 31.10.2018 on the file of the learned Additional District and Sessions Court (Fast Track Court), Arani (O.S.No.44 of 2013 on the file of the District Court, Thiruvannamalai) in so far as the same are against the petitioner, thereby dismissing the petition to implead the petitioner as the second plaintiff in the suit.

2. The petitioner is the third party and the first respondent is the plaintiff and the respondents 2 and 3 are the defendants. The first respondent filed the suit as against the respondents 2 and 3 for partition and permanent injunction. The first respondent was indebted to several persons and had created several registered mortgages over the suit property. The

petitioner also lent huge sum as loan to the first respondent to meet out his daughter's marriage. In order to get the said amount back, he purchased the common half share of the first respondent herein in the suit property from the first respondent herein by the registered sale deed dated 24.10.2017. In fact, the first respondent had also discharged the other debts outstanding over the suit property on the same day. Therefore, the petitioner stepped into the shoes of vendor viz., the first respondent herein and entitled to proceed with the suit in the place of the first respondent herein. The Court below dismissed the petition for the reason that the petitioner and the first respondent joined together and filed the present petition only to cheat the third respondent herein.

3. The learned counsel for the petitioner also produced full satisfaction memo filed by the third respondent herein in O.S.No.74 of 2004 and stated that a sum of Rs.8,14,600/- was paid in full quit of the entire decree amount. Therefore, the entire debts of the third respondent herein was already cleared on the date of the sale deed dated 24.10.2017. Therefore, the petitioner is the necessary party to proceed the suit with the

first respondent herein.

4. In view of the above discussion, this Civil Revision Petition is allowed and the order passed in I.A.No.58 of 2018 in O.S.No.49 of 2017 dated 31.10.2018 is hereby set aside. However, the Court below is directed to dispose of the suit within a period of six months from the date of receipt of a copy of this order. Consequently, the connected Miscellaneous Petition is closed. No costs.

09.07.2021

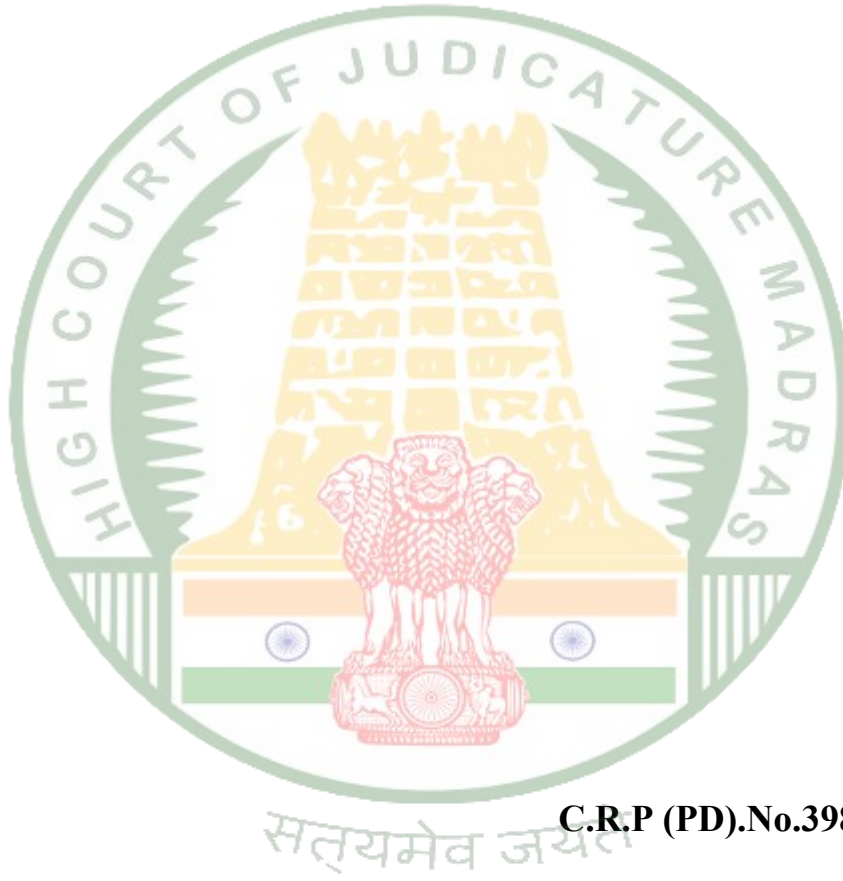
Speaking/Non-speaking order
Index : Yes/No
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To

1. The Additional District and Sessions Court (Fast Track Court), Arani.
2. The Section Officer,
V.R. Section, High Court of Madras.

G.K.ILANTHIRAIYAN,J.

Kv



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