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C.R.P.No.3037 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2023

CORAM

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

C.R.P.No.3037 of 2016
and C.M.P.No.15345 of 2016

K.Shanmugam

.. Petitioner

Vs.

1. M.Karunagaran
2. K.Thulaingamoorthy (Died)
3. T.Pushpa
4. A.Balamurugan
5. K.Venkatesan
6. S.Mahadevan (Died)
7. Pavitha
8. Sandeep
9. Selvi

(R7 to R9 brought on record
as LR's of the deceased
2nd and 6th respondents
Viz., K.Thulaingamoorthy
and S.Mahadevan vide
order dated 31.01.2023 made
in C.M.P.No.6552 of 2022
in C.R.P.No.3037 of 2016)

.. Respondents

Prayer:- Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the Order and Decretal order of allowing the I.A.No.310 of 2016 in O.S.No.377 of 2010 on the file of the Sub-ordinate Judge at Poonamallee dated 06.06.2016 and pass such further or other orders as this Hon'ble Court may deem fit and proper.



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For Petitioner : Mr.R.Karunakaran
For R1 : Mr.D.Vishnu Vardhan
for Mr.A.E.Ravichandran
For R2 : Died (Steps Taken)
For R3 to R5 : Notice served
For R6 : Died (Steps Taken)

ORDER

This Civil Revision Petition has been filed as against the Order and Decretal order of allowing the I.A.No.310 of 2016 in O.S.No.377 of 2010 on the file of the Sub-ordinate Judge at Poonamallee dated 06.06.2016, thereby dismissing the petition filed for taking subpoena by way of summons to the defendants 1 to 3 and to give evidence in the suit.

2. The petitioner is the 6th defendant in the suit in O.S.No.377 of 2010 filed by the first respondent herein for declaration. The petitioner also filed a suit in O.S.No.83 of 2012 for declaration and permanent injunction in respect of the very same property. Thereafter, both the suits were directed to be clubbed together for joint Trial. At that juncture, the defendants 1 to 3 have colluded with the first respondent herein and did not let in any evidence on their side though they filed a written statement. Hence, the petitioner's prayer to cross examine has been denied and filed an application to issue summons to them for



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letting in evidence.

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3. The parties cannot be compelled to give evidence. If at all the petitioner has a case, he has to let in evidence and mark the documents in support of his contention.

4. Therefore, the Court below rightly dismissed the petition and this Court finds no infirmity or illegality in the order passed by the Court below and this petition is liable to be dismissed. However, as the suits are of the year 2010 and 2012, the Trial Court is directed to dispose of both the suits, within a period of six months from the date of receipt of a copy of this order.

5. Accordingly, this Civil Revision Petition is dismissed. Consequently, connected Miscellaneous petition is closed. No costs.

31.01.2023
(2/2)

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

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G.K.ILANTHIRAIYAN,J.

mn

To

The Sub-ordinate Judge at Poonamallee.

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and C.M.P.No.15345 of 2016

31.01.2023