

IN THE HIGH COURT OF JUDICATURE AT MADRAS**DATED: 31.08.2017****CORAM****THE HONOURABLE MR.JUSTICE M.GOVINDARAJ****CRP.(PD)No.1744 of 2017**
and C.M.P. No. 8236 of 2017

M.Palanisamy

... Petitioner

vs.

K.Palanisamy

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the order dated 27.04.2017 in I.A. No. 231 of 2017 in O.S.No. 87 of 2017 on the file of District Munsif Mettupalayam.

For Petitioner : Mr.R.Karthikeyan

For Respondent : M/s.Bharatha Chakravathy
for Sai Bharath & Illan**ORDER**

This Civil Revision Petition is directed against the non speaking order passed in I.A No. 231 of 2017 in O.S.No. 87 of 2017 on the file of District Munsif Court, Mettupalayam.

2. From a perusal of the records, it is seen that a Company Application No. 1081 of 2014 was filed on 06.10.2014 in Company Petition No. 17 of 2004 by the plaintiff/respondent. The learned Single Judge of this Court has found that respondents are in possession of the suit property.

3. On going through the lease deed dated 19.06.2009, the Hon'ble first Bench has found that respondent/plaintiff has established its possession, but the title claim can only by way of leading evidence in the suit. While the matter stood thus, the respondent/plaintiff has filed O.S.No. 87 of 2017 before the District Munsif Court, Mettupalayam for declaration to declare the lease deed dated. 19.06.2009 as null and void. In the said suit, the plaintiff has also petition for injunction under order XXXIX Rule (i) to (ii) of C.P.C.

4. The Trial Court has allowed the petition for injunction on the ground that the respondent has not appeared before the Court. The Trial Court has absolutely omitted to apply its mind with regard to the order passed by the learned Single Judge of this Court in C.P.No.1081 as well as the order passed by the Hon'ble First Bench of this Court in O.S.A No. 242 of 2016 dated 30.11.2016.

5. Whenever an Order under XXXIX Rule (i) to (ii) of C.P.C is passed, the Trial Court is expected to record its reason with regard to the prima facie case and balance of convenience of the parties. Without assigning any reason, the Court is not supposed to grant injunction for absence of the parties. Even, when the respondent has not appeared before this Court, the Trial Court is expected to apply its mind and to arrive at the conclusion as to whether the plaintiff is entitled for injunction or not.

6. In instant case, the Trial Court has not assigned any reason for granting injunction. Therefore, this Court, in exercise of power under Article 227 of Constitution of India, is setting aside the order dated 27.04.2017 in I.A.No.231 of 2017 in O.S.No. 87 of 2017 on the file of District Munsif, Mettupalayam and remit the matter back to Trial Court to consider the matter afresh and to pass a reasoned order after hearing both the sides and after applying its mind to the previous orders and documents produced by both the sides within a period of three weeks from the date of receipt of a copy of this order. The petitioner/respondent is directed to file a counter within this time.

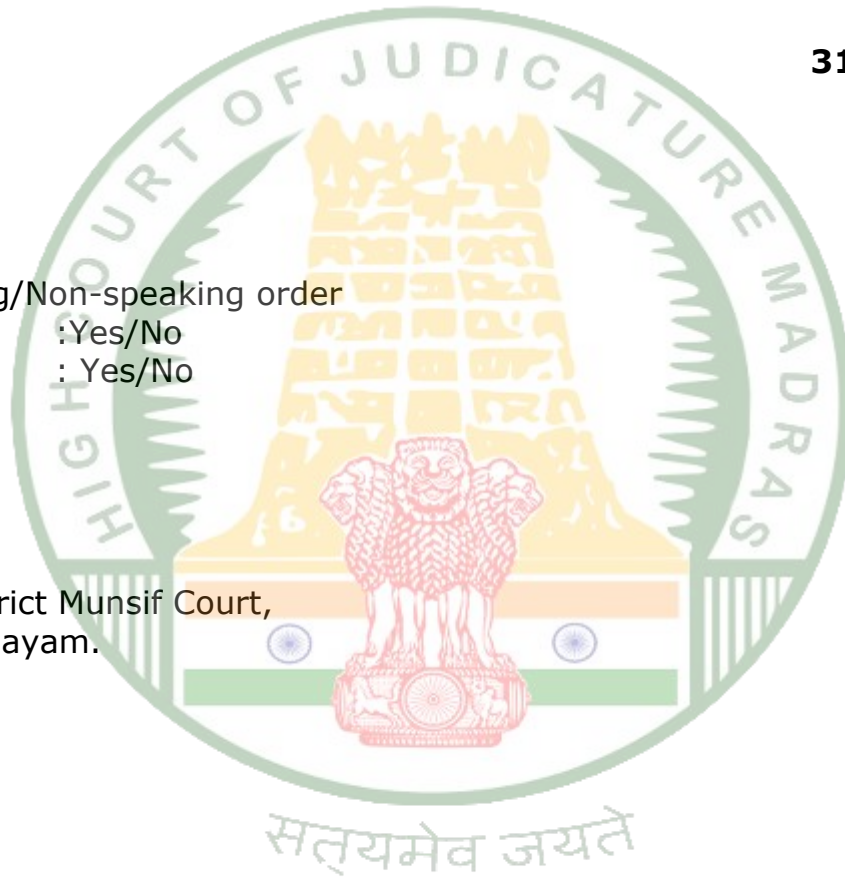
7. With the above observation, this Civil Revision Petition is disposed of. No costs. Consequently, connected Miscellaneous petition is closed.

31.08.2017

Speaking/Non-speaking order
Index : Yes/No
Internet : Yes/No
bsm

To

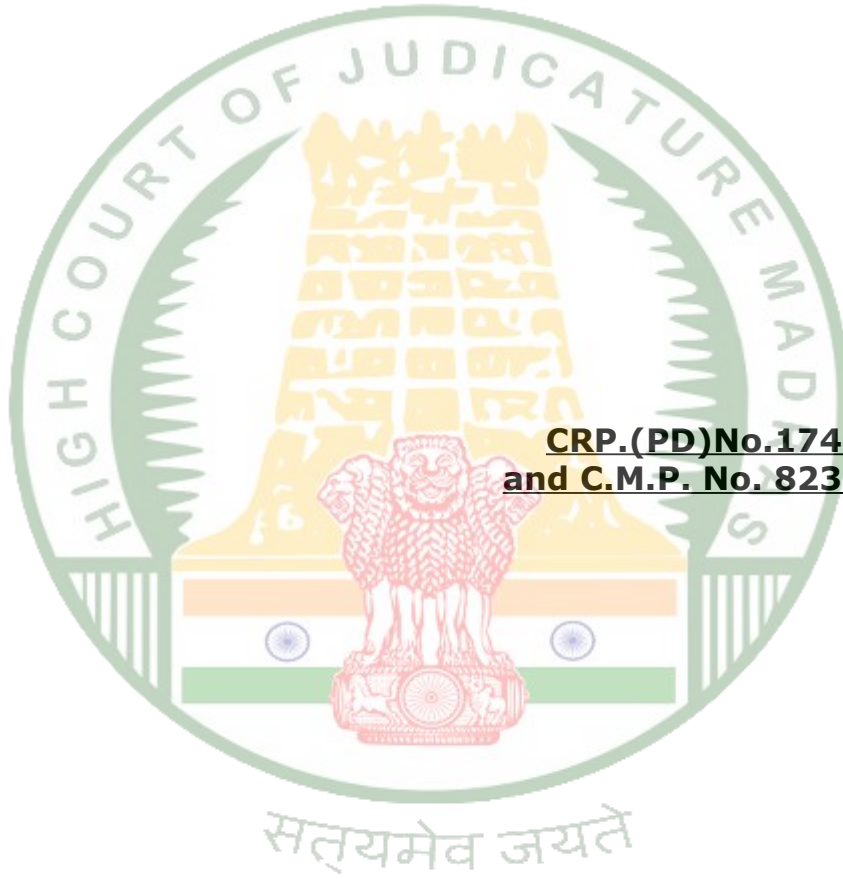
The District Munsif Court,
Mettupalayam.



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M.GOVINDARAJ.,J.

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