

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.11.2017

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

C.R.P.(PD).No.2660 of 2017

and

C.M.P.No.12677 of 2017

Krithiga

.. Petitioner

Vs.

U.Praveen Kumar

.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the returning of the counter claim and additional counter filed by the petitioner in Unnumbered I.A.No.____ of 2017 in H.M.O.P.No.80 of 2013, on the file of the Principal Subordinate Judge, Cuddalore.

For Petitioner : Mr. V.Balamurugan

For Respondent : Mr.P.R.Thiruneelakandan

ORDER

The petitioner has filed this Civil Revision Petition to set aside the order passed by Principal Subordinate Judge, Cuddalore, in in Unnumbered I.A.No.____ of 2017 in H.M.O.P.No.80 of 2013.

2. The petitioner has filed this application is unnumbered I.A.No.____ of 2017 to file the counter claim and additional counter filed by the respondent herein in H.M.O.P.No.80 of 2013. The court below has returned the said unnumbered application on the ground that the said application is not maintainable and hence he filed the present revision before this Court. Challenging the aforesaid return of this application, the petitioner has filed the present revision on the ground that the trial court to number the application and thereafter, all the objections to be decided at the later stage and the same shall not be applied on the unnumbered stage.

3. The learned counsel for the respondent would submit that under Order 8 Rule 6(A), the said application cannot be filed at this stage. Therefore, the Court below is rightly returned the said application.

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4. In the light of the decision of this Court in the case of **G.V.Vanitha v. K.Dhanasekaran** reported in **2016 (5) CTC 329** and also in my considered view that the trial court is directed to number the unnumbered I.A. subject to the objections to be decided at the later stage at the time of hearing the I.A. Therefore, this Court is inclined to

pass the following orders:

i) The petitioner is permitted to re-present the papers within a period of one week from the date of receipt of a copy of this order.

ii) If the said application is otherwise in order, except the issue of maintainability, the trial court is directed to number it.

iii) After numbering the I.A., the court below is directed to decide the application on merits in accordance with law including maintainability of claim, after providing opportunity to the respondents within a period of four weeks.

On instructions, the learned counsel for the parties are undertaken before this Court that they will co-operate to dispose the said application.

With the above directions, this Civil Revision Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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Index: Yes/No

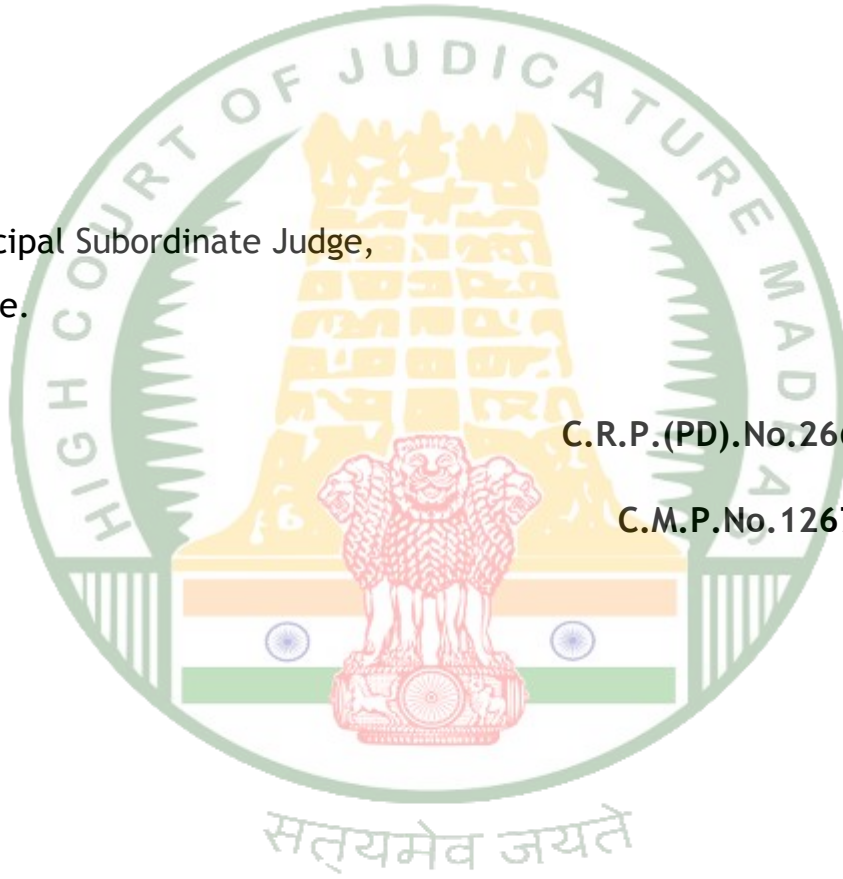
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Note: Issue order copy on 06.11.2017.

D. KRISHNAKUMAR, J.,

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To
The Principal Subordinate Judge,
Cuddalore.



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