

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.10.2017

CORAM

THE HON'BLE MR. JUSTICE **D. KRISHNAKUMAR**

CRP.PD.Nos.2910,2911 and 2912 of 2017

and
C.M.P.No.13767 of 2017

D. Aruna

.. Petitioner/Plaintiff in all CRP's

Vs.

1. Pitchandi

2. Vasanthi

3. Prasanth

4. Minor Ajeeth

5. Minor Sakthivel

.. Respondents/Defendants
in all CRP's

PRAYER: These Civil Revision Petitions are filed under Article 227 of the Constitution of India to set aside the fair and decretal orders dated 18.04.2017 made in I.A. Nos.194,195 and 196 of 2017 in O.S.No.836 of 2005 on the file of the Additional District Munsif Court, Vellore.

For Petitioner : Mr.P.Mani

For Respondents : Mr.M.Sarfudeen Ali Ahamed

COMMON ORDER

The present Civil Revision Petition is filed to set aside the fair and decreetal orders dated 18.04.2017 made in I.A. Nos.194,195 and 196 of 2017 in O.S.No.836 of 2005 on the file of the Additional District Munsiff Court, Vellore.

2. The facts of the case is follows:

The respondent/plaintiff has filed the suit in OS No.836 of 2005 for specific performance. In the aforesaid suit, trial was commenced and the plaintiff's side evidence was closed and posted for arguments. At this stage, the revision petitioner herein has filed the interlocutory application in IA Nos. 194/2017 to re-open, 195/2017 to recall of PW1 and 196/2017 to condone the delay for marking three documents. According to the petitioner, all these aforesaid documents are execution of sale deeds and the subsequent encumbrance certificate. Hence, they were very vital to his case. After hearing both parties concerned, the court below rejected the contention of the petitioner by stating that the said application has been filed by the petitioner belatedly and no valid reason had been adduced to allow the said application and dismissed the same. Aggrieved over the same, the petitioner/plaintiff is before this court.

2. The learned counsel for the revision petitioner submitted that the sale deeds which required to be marked are executed by the defendant in favour of third party and hence the same need to be marked. However, by marking the same, no prejudice would be caused to the defendant. Hence, the order passed by the trial court needs to be set aside.

3. The learned counsel appearing for the respondents would submit that marking of two sale deeds executed by the defendant in favour of the third party has already been stated in the written statement and there is no dispute with regard to the execution of sale deed. Hence, there is no necessity for marking of the said documents and the revision petitioner/plaintiff by marking of the documents merely dragging on the trial and passing of the judgment in the aforesaid suit.

4. In reply to the said contention, the counsel for the revision petitioner submitted that there is no prejudice caused to the respondent/defendant in marking of the said document. The apprehension of the respondent/ defendants that the revision petitioner is only to drag on the proceedings may not be true.

However, learned counsel for petitioner on instructions undertakes before this Court that the revision petitioner will only mark those documents and will not seek for any further evidence in the suit. Further, he would also co-operate for the disposal of the suit, within the time framed by this Court.

5. In view of the aforementioned submissions made by the counsel for the parties and taking into consideration the facts, I am of the view that by marking of the above said sale deeds, no prejudice is caused to the defendants.

6. In view of the same, the trial court permitted the petitioner to mark the documents, as per the undertaking given by the counsel for the petitioner as mentioned in interlocutory and cannot mark any other documents or shall not adduce any further evidence in the suit. At the same time, the respondents/defendants are permitted to cross examine, if necessary after marking of the documents by the revision petitioner/plaintiff.

7. In view of the undertaking given by the counsel on either side, the impugned order passed by the Court below is set aside and the trial court is directed to complete the trial within a

period of three months from the date of receipt of a copy of this order.

8. Accordingly, these Civil Revision Petitions are allowed. However, there shall be no order as to costs. Consequently, the connected Miscellaneous Petition is closed.

31.10.2017

Speaking/Non-speaking order

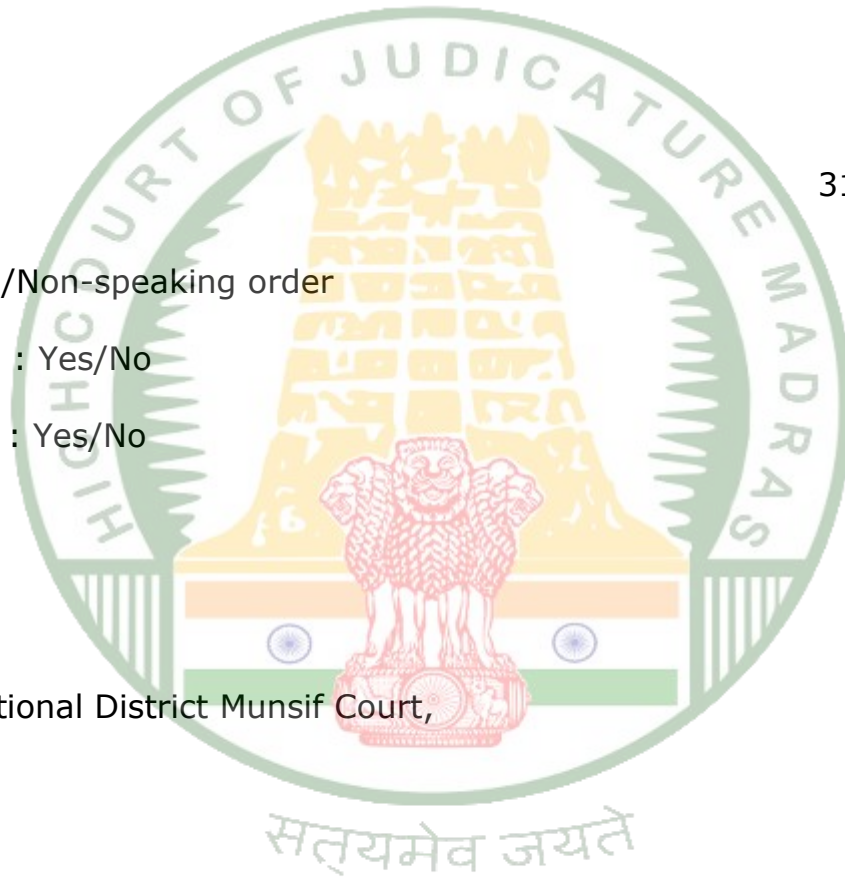
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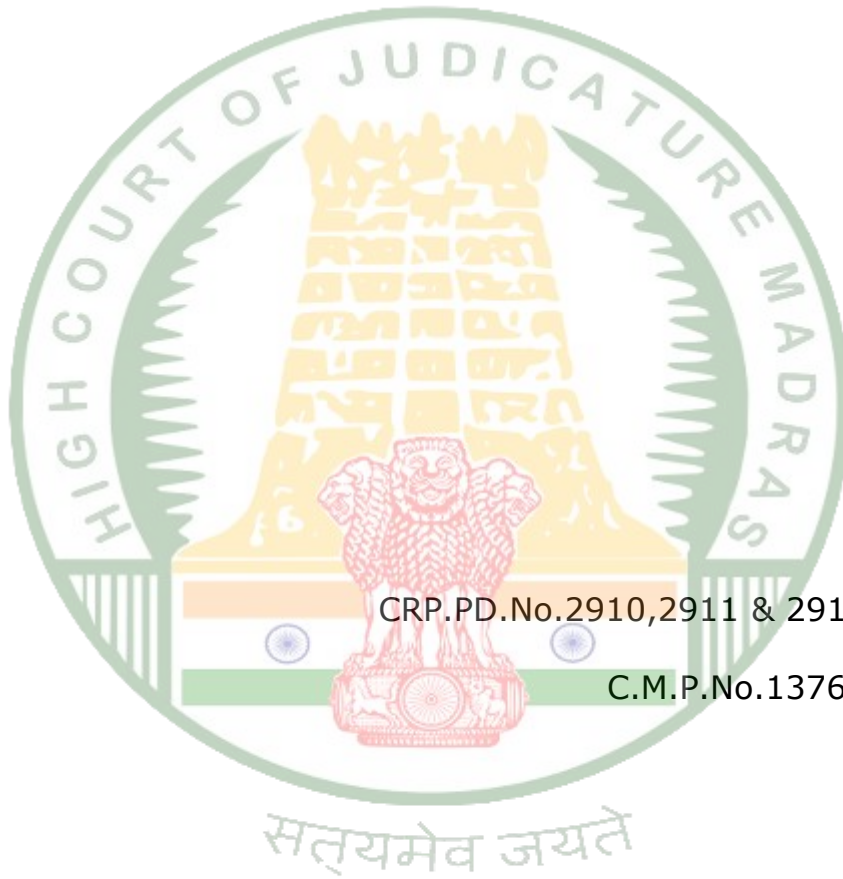
The Additional District Munsif Court,
Vellore.



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D.KRISHNAKUMAR,J.

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