

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.11.2017

CORAM

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

CRP.NPD.No.3972 of 2017 and
CMP.No.18532 of 2017

1. Y.Janeshwarraj
Rep by his Mother and Power Agent,
Y.Vasanthi,
Door No.144 in SF.No.174/3,
Kovaipakkam Village,
Edikazhinadu Town Panchyat,
Kancheepuram District

2. Y.Vasanthi
..Petitioners

Vs.

1. S.Yuvaraj
2. Y.Vigneshwarraj
3. Veerammal
4. Sub-Registrar,
Office of the Sub-Registrar
of Cheyyur,
Cheyyur,
Kancheepuram District
5. The Inspector General of Registration,
No.100, Santhome High Road,
Chennai-600028.
..Respondents

PRAYER:

The Civil Revision Petition is filed under Article 227 of the

Constitution of India against the impugned order of dismissal passed by the learned District Munsif of Maduranthakam dated 04.08.2017 made in I.A.No.1573 of 2017 in OS.SR.No.5819 of 2016 rejecting to accept the cause title and returning the plaint vide OS SR.No.5819 of 2016 and thereby refusing to number the plaint.

For Petitioners : Mr.K.R.Vijayakumar

ORDER:

The petitioner herein filed a suit in OS.SR.No.5819 of 2016. The court below has returned the plaint pointing out some defects. The said papers were represented with explanation. Thereafter, as directed by the trial court the petitioner filed an application in IA.No.1537 of 2017 to amend the cause title in the plaint. The fourth defendant was already a party in the suit. However, at the instance of the defects pointed by the court below, the petitioner has impleaded the fifth defendant as a party in the suit. The said application was rejected on the ground that there is no relief against the fourth and fifth defendants. Challenging the aforesaid order, the petitioners have filed the present Civil Revision Petition before this Court.

2. According to the learned counsel for the petitioner, whether the proposed parties are necessary party or not to be decided

at the later stage. At this stage, without issuing notice to the respondents / proposed parties, the court below has rejected the plaint for misjoinder of parties by stating that there is no relief against the fourth and fifth defendants who are Government officials, no way connected to the suit properties. The order passed by the trial court is unsustainable in law. Further, the said application has been considered without issuing notice to the respondents / proposed parties. Therefore, the order passed by the court below is liable to be set aside.

3. By considering the above said submissions, it is seen from the plaint, originally the court below has returned the plaint of the petitioner by stating that the petitioner has to implead the head of the department as a party. However, when the impleading application filed to implead the proposed parties, the court below has rejected the same. According to the petitioner, when the subject matter of the suit property has been attached by the Tribunal, the cancellation of settlement deed was registered. Therefore, they are also necessary party and the order of the court below is violation of the rules as well as the decisions of this Court.

4. At this stage, the learned counsel for the petitioners has made an endorsement to delete the proposed fifth defendant

namely the Inspector General of Registration as a party in the suit and if necessary, at later stage he may be impleaded as a party.

5. In the light of the aforesaid facts and submissions made by the learned counsel for the petitioner, the order passed by the trial court is set aside and the trial court is directed to number the suit, if it is otherwise in order. The maintainability of the suit shall be decided at later stage.

6. The Civil Revision Petition is disposed of with above directions. Consequently, the connected miscellaneous petition is closed. No costs.

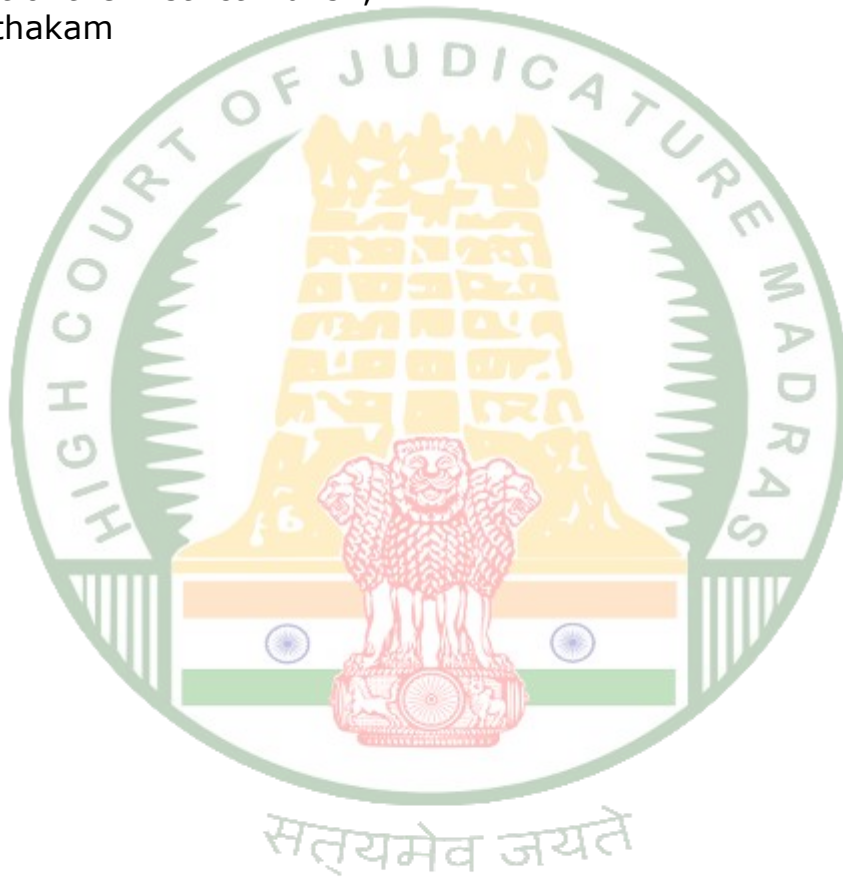
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Speaking/Non-speaking order
Index : Yes/No
Internet : Yes/No
(Note: Issue order copy on 02.11.2017)
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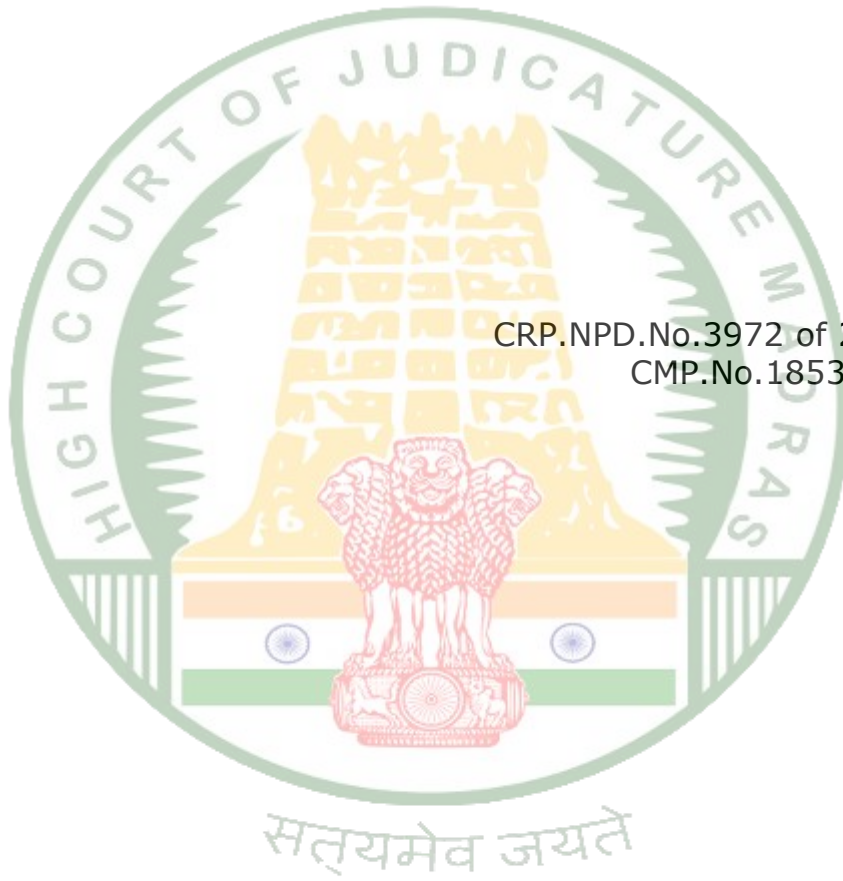
To

The Court of the District Munsif,
Maduranthakam



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D.KRISHNAKUMAR. J,



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