

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.11.2017

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

CRP (PD) No. 4078 of 2017

and

C.M.P No.19127 of 2017

Surutiyar @

Vediappa Gounder (Dead)

1. Periyapappa @ Perumiammal

2. Prakasam

3. Palanisamy

4. Rani

.. Petitioners

Vs

1. The State of Tamil Nadu
rep. through District Collector
Dharmapuri.

2. The Revenue Divisional Officer
Harur Taluk and Post
Dharmapuri District.

3. The Tahsildar
Harur Taluk
Dharmapuri.

4. The Revenue Inspector
Harur Taluk
Dharmapuri.

5. The Village Administrative Officer
H. Doddampatti
Dharmapuri.

6. Chinnaponnu

7. Murugesan

8. Akila

9. Akilan

10. Janaki

11. Ponni

12. Manoharan

13. Kannagi

14. Rani

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order and decreetal order in CMA No.1/2015 on the file of Principal Sub Court, Harur dated 12.09.2017.

For Petitioners : Mr. V. Lakshminarayanan

ORDER

This revision arises against the order and decreetal order in CMA No.1/2015 on the file of Principal Sub Court, Harur dated

12.09.2017.

2. The learned counsel for the petitioners would submit that the 1st petitioner's husband/deceased plaintiff filed I.A. No. 270 of 2011 in O.S. No. 53/2011, seeking for temporary injunction against the respondents not to disturb the peaceful possession and the enjoyment of the petitioner till the disposal of the suit. The said application was filed on 14.03.2011 and the respondents 7 and 9 remained ex-parte. Thereafter, on 18.04.2011 and 21.06.2011 the respondents 1 to 6, 8, 10 to 14 appeared through counsel and were getting time to file their written statement. Whiles, on 08.08.2011, the respondents 8 to 14 illegally entered into the suit property and started construction. Hence, the 1st petitioner's husband/deceased 1st plaintiff filed an Interlocutory Application in I.A. No. 949 of 2011 seeking to direct the respondents to maintain status quo of the suit properties, as on 14.03.2011. Counter affidavit was filed by the 3rd respondent. The trial court dismissed the Interlocutory Application. Challenging the same, the revision petitioners preferred an appeal in CMA No.1 of 2015 before the Subordinate Court, Harur. Considering the order of the trial court and the submission made by the parties, the lower Appellate Court dismissed the appeal. Against

the same, the present revision is filed.

3. According to the petitioners, both the courts ought not to have dismissed the application, on the ground that the petitioners have not filed an application for appointment of Advocate Commissioner to inspect the suit property. Hence, the judgment of the courts below are liable to be set aside.

4. Considering the submission of the learned counsel for the petitioners and the facts of the case, the prayer sought by the petitioners cannot be granted by this Court. Both the courts below has rightly rejected the application filed by the petitioners. The Interlocutory Application in I.A. No. 270 of 2011 in O.S. No. 53/2011, is pending before the trial court. Hence, if the petitioners have any grievance, they can file appropriate application, in the pending Interlocutory Application or in the suit.

5. Therefore, the Civil Revision Petition fails and the same is dismissed. Consequently, the connected Miscellaneous Petition is closed. No order as to costs.

14.11.2017

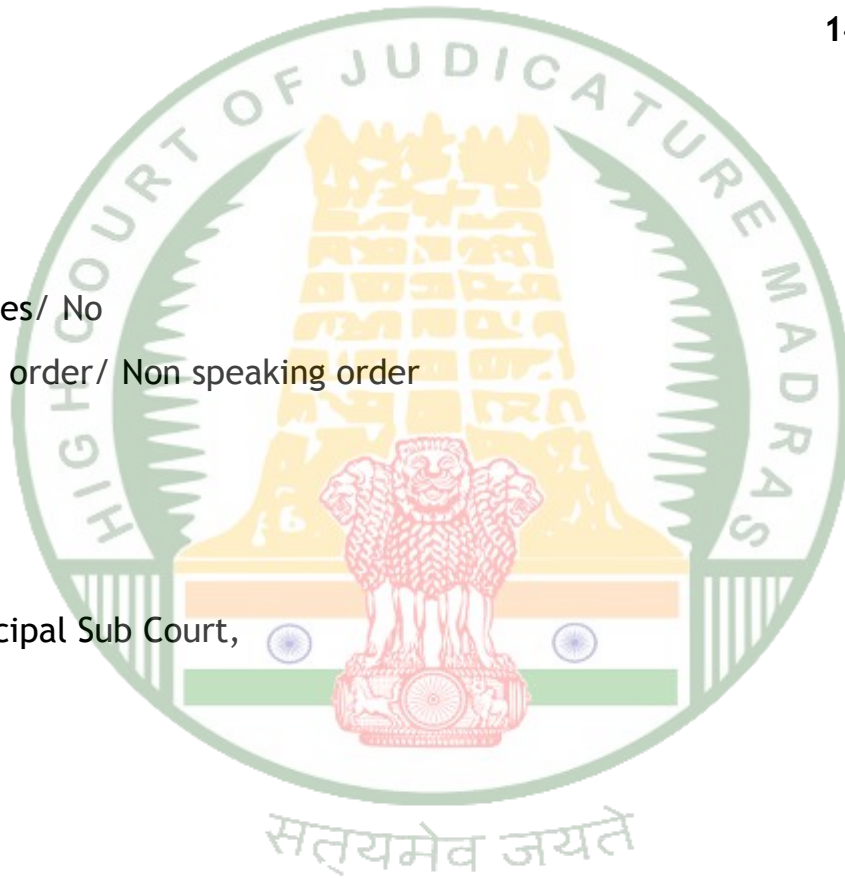
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Speaking order/ Non speaking order

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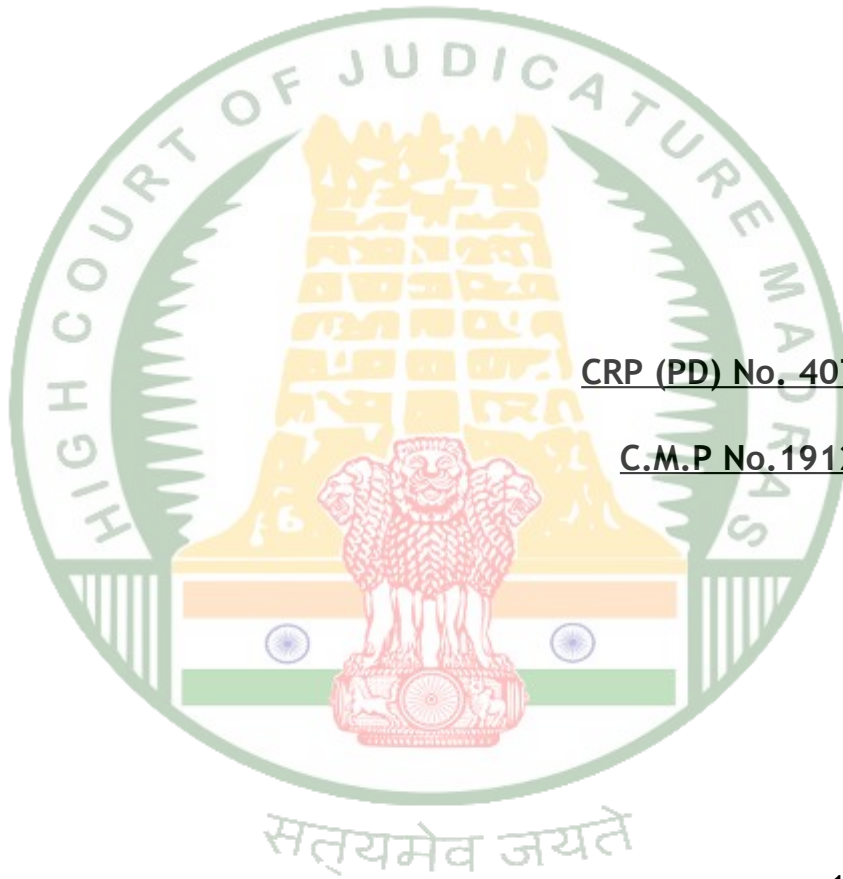
The Principal Sub Court,
Harur.



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D. KRISHNAKUMAR J.,

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