

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.11.2017

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

C.R.P. PD No.4137 of 2017
and
C.M.P. No.19393 of 2017

1. M.S.Subbiah
2.S.Damodaran

...

Petitioners

Versus

O.P. Ravindran

...

Respondent

PRAYER : Civil Revision Petition filed under Section 115 of C.P.C. to set aside the fair and decreetal order in I.A. No.991 of 2017 in O.S. No.568 of 2006, dated 26.10.2017 by the learned Additional Munsif at Alandur.

For petitioners : Mr.T.Ramachandran

ORDER

सत्यमेव जयते

The defendants are the revision petitioners in the suit filed by the plaintiff for recovery of vacant possession, mandatory injunction and consequential permanent injunction. Pending suit, the defendants have filed I.A. No.991 of 2017 in O.S. No. 568 of 2006 to implead the Revenue Divisional Officer, Tambaram as a party to the suit on the ground that the Revenue Divisional Officer, during the pendency of the suit, has cancelled the patta

granted in favour of the petitioners in respect of the suit property. Therefore, according to petitioners, the Revenue Divisional Officer, Tambaram is a proper and necessary party to the suit for proper and effective adjudication of their defence.

2. The implead petition was resisted by the plaintiff/ respondent herein by contending that as against the order, cancelling the patta in favour of the petitioners, the petitioners have already filed an appeal before the appellate authority and the appeal is pending. In any event, the correctness or otherwise of the order passed by the Revenue Divisional Officer, Tambaram, cancelling the patta in favour of the petitioners cannot be gone into by the Civil Court in the suit filed by the plaintiff. Therefore, the plaintiff/respondent herein prayed for dismissal of the application.

3. The Court below accepting the contention of the plaintiff / respondent herein has refused to allow the application filed for impleading the Revenue Divisional Officer, Tambaram. Challenging the said order, the present Civil Revision Petition has been filed.

4. Learned counsel appearing for the petitioners vehemently contended that during the pendency of the suit, the Revenue Divisional Officer, Tambaram has cancelled the patta granted in favour of the petitioners in respect

of the suit property. Therefore, according to the learned counsel for the petitioners, the Revenue Divisional Officer, Tambaram is a proper and necessary party and the same was not properly considered by the Trial Court, while dismissing the application

5. On the above contention, this Court heard the learned counsel for the plaintiff/respondent herein who justify the order of dismissal passed by the trial court.

6. Heard the learned counsel for both sides and perused the materials placed on record. Admittedly as against the order cancelling the patta in favour of the petitioners, the petitioners have filed an appeal before the District Revenue Officer, Kancheepuram. According to the petitioners, as there was no progress in the appeal filed by them, they have also filed W.P. No.8631 of 2014 before this Court to quash the order dated 04.10.2013 of the Revenue Divisional Officer, Tambaram and the same is pending. Further, the suit was filed in the year 2006 by the plaintiff / respondent for recovery of possession in the year 2006, whereas, the order cancelling the patta in favour of the petitioners has been passed by the Revenue Divisional Officer on 04.10.2013. Further, it is brought to the notice of this Court that in the suit, trial commenced and evidence of the plaintiff was concluded both in chief examination and cross examination and the suit is now posted for examination of the second defendant as DW2. At this stage, the petitioners have filed the present application to implead the

Revenue Divisional Officer, Tambaram as a party in the suit. In my considered opinion, the Revenue Divisional Officer, Tambaram is not a proper and necessary party to the suit. The Trial Court, while dismissing the application has also held that if at all the Revenue Divisional Officer, Tambaram can be examined as a witness in the suit filed by the plaintiff / respondent herein and to implead him is not necessary for adjudication of the suit. Even in absence of the impleading the Revenue Divisional Officer, Tambaram, the suit filed by the plaintiff / respondent herein can be adjudicated on its own merits. Therefore, I am of the view that the Court below has rightly dismissed the application filed by the petitioners to implead the Revenue Divisional Officer, Tambaram.

7. In view of the above facts and circumstances, the Civil Revision Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

15.11.2017

Index : Yes / No

Internet : Yes / No

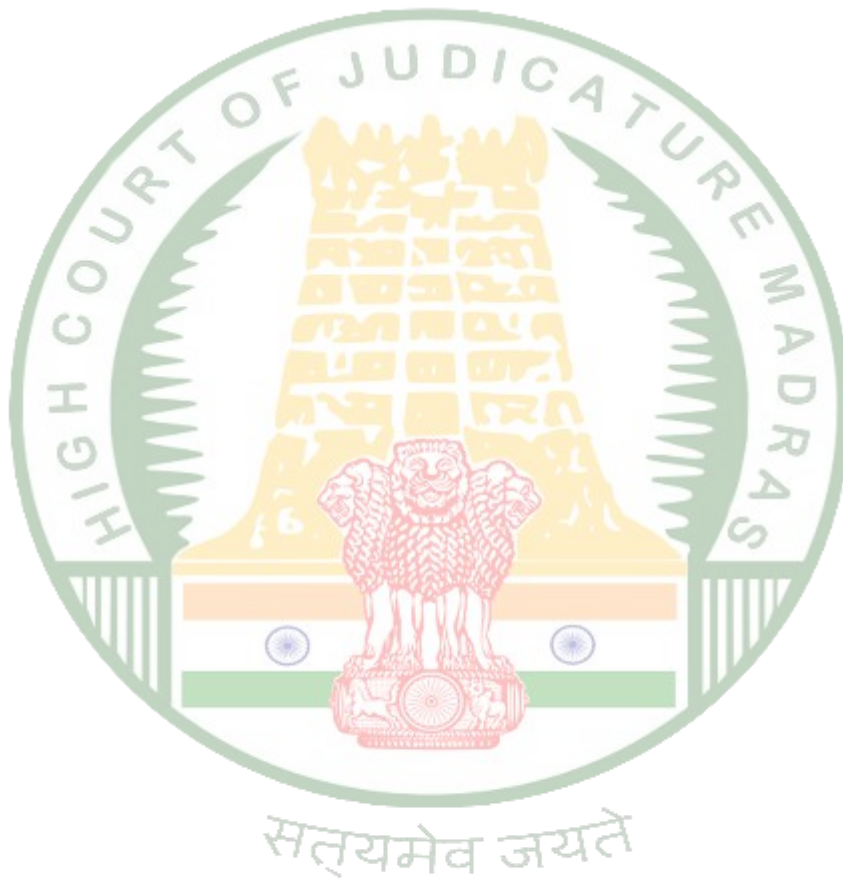
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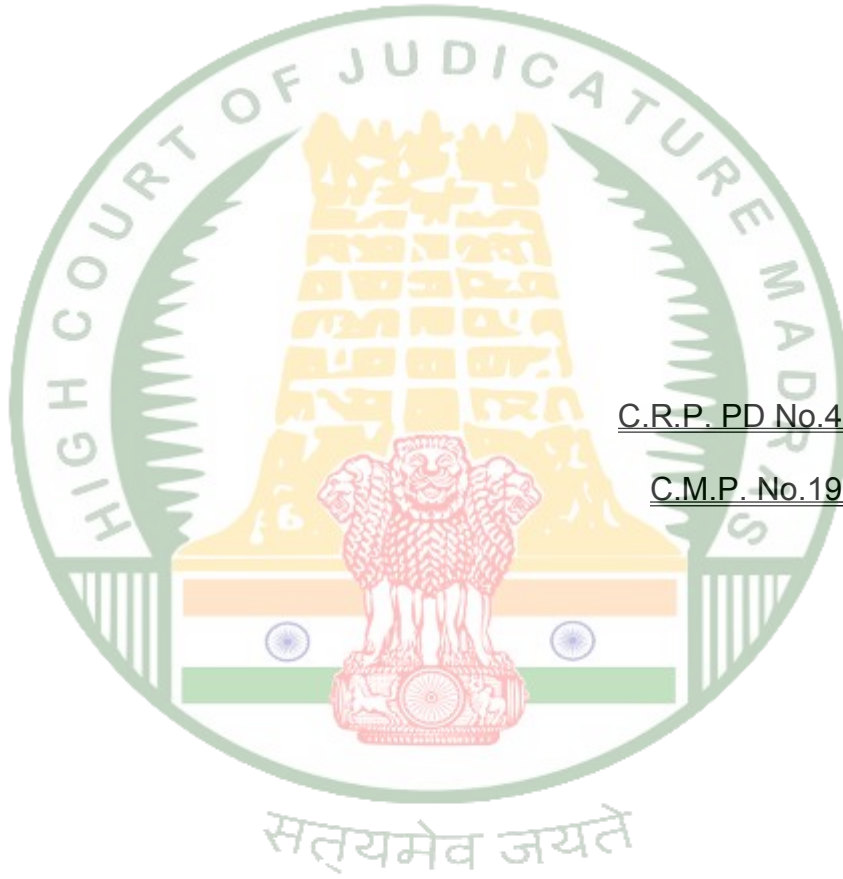
The Additional Munsif at Alandur.



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D.KRISHNAKUMAR, J.

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