

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.11.2017

CORAM

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

CRP.(PD). No.4280 of 2017
and CMP.No.20123 of 2017

Mohammed Hanifa

..Petitioner

Vs.

1. Pandiyan

2. The Executive Officer,
Town Panchayar
Vadalur
Kurinjpadi Tk

..Respondents

PRAYER:

The Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair and decretal orders dated 21.07.2017 passed in I.A.No.287 of 2017 in O.S.No.147 of 2014 on the file of Principal District Munsif Court, Cuddalore.

For petitioner : M/s.R.Meenal

ORDER:

According to the revision petitioner, the revision petitioner has filed a suit in OS.No.147 of 2014 before the Principal

District Munsif Court, Cuddalore for permanent injunction. In the aforesaid suit, the second respondent / the Executive Officer has filed written statement. After filing the written statement, the first respondent herein / the proposed party in the said suit has filed an application in IA.No.287 of 2017 to implead him as respondent in the aforesaid suit by stating that the revision petitioner has closed the pathway on the west of his house by fixing a gate, which is an encroachment. Therefore, he is also a necessary party in the aforesaid suit. Pursuant to that, the revision petitioner has filed an objection by stating that the first respondent is not a necessary party in the aforesaid suit and the said suit is only for permanent injunction. But, the trial court has allowed the said application. Challenging the aforesaid order, the revision petitioner has filed the present Civil Revision Petition before this Court.

2. The learned counsel for the revision petitioner would submit that the suit is for permanent injunction and the second respondent is already a party in the aforesaid suit. Therefore, the first respondent is not a necessary party in the said suit. But, the court below has erroneously allowed the said application.

3. Considered, the submissions made by the learned

counsel for the revision petitioner and perused the materials available on record.

4. On perusal of the affidavit filed by the first respondent, the first respondent has stated that the revision petitioner has closed the pathway on the west of his house by fixing a gate, which is an encroachment. Therefore, hardship has been caused to the first respondent. In the light of the contentions made in the affidavit, and in view of the decisions of this Court as well as the Hon'ble Supreme Court, the court below has rightly allowed the application. Therefore, there is no warrants to interfere with the orders passed by the court below and the Civil Revision Petition is liable to be dismissed.

5. At this stage, the learned counsel for the revision petitioner seeks this Court to direct the court below to dispose of the said suit at an earliest.

6. In view of the request made by the learned counsel for the revision petitioner and by considering that the suit is of the year 2014, the court below is directed to dispose of the suit in OS.No.147 of 2017 in accordance with law as expeditiously as

possible, preferably within a period of six months from the date of receipt of a copy of this Order.

7. Thus, the Civil Revision Petition is dismissed with above observations. Consequently, the connected miscellaneous petition is closed. No costs.

27.11.2017

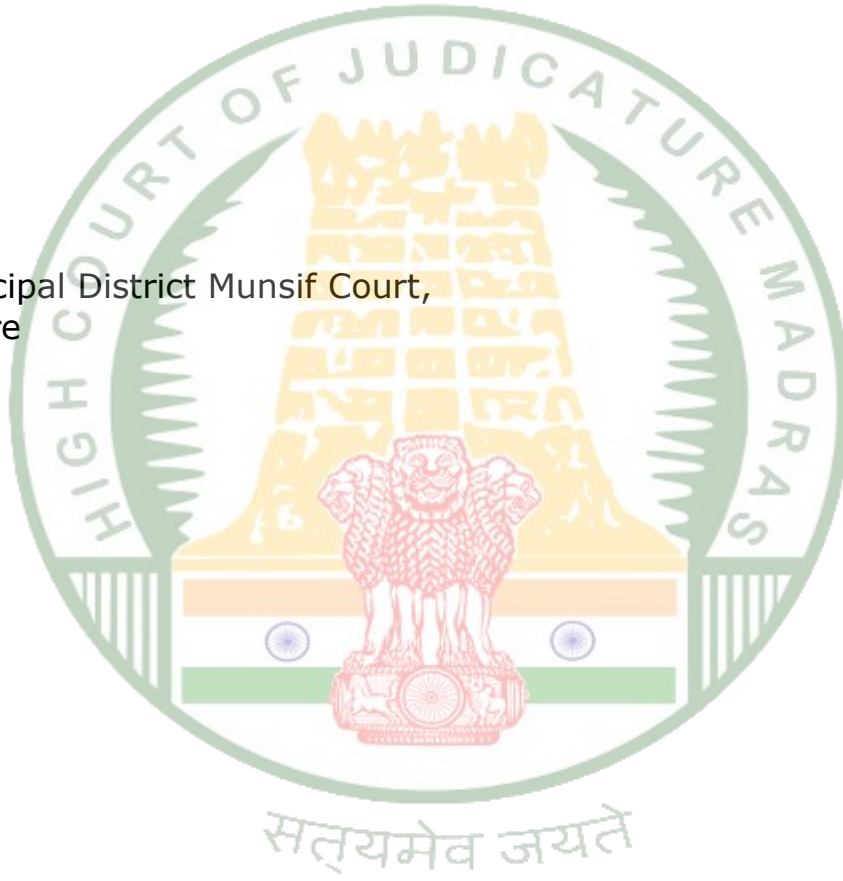
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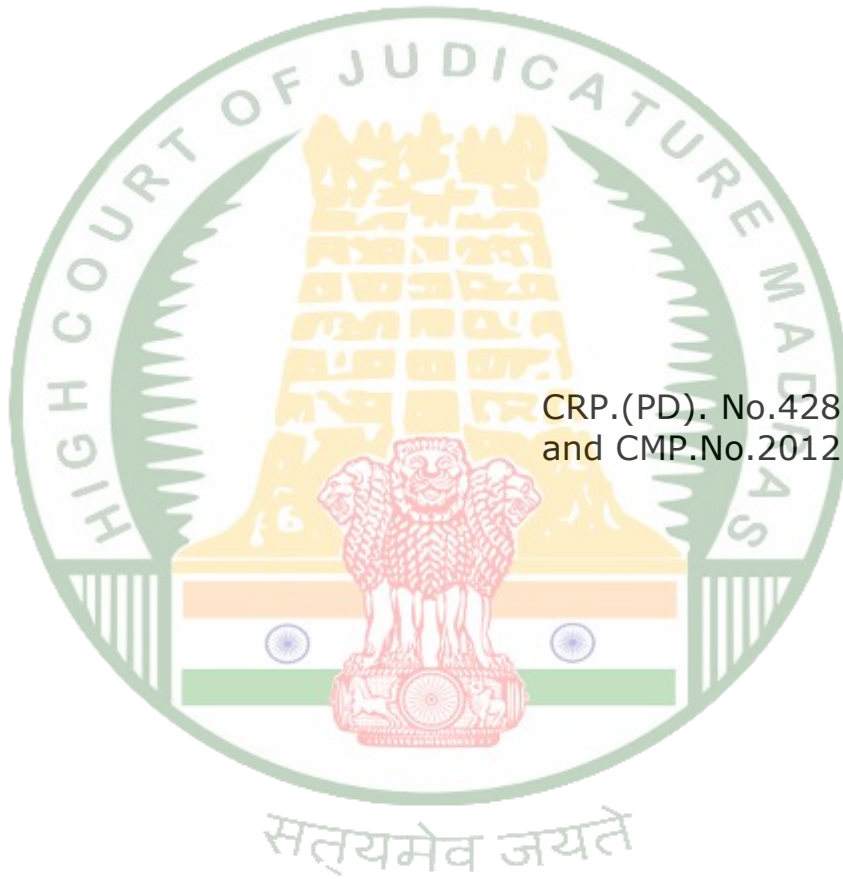
The Principal District Munsif Court,
Cuddalore



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