

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.12.2017

Coram

THE HON'BLE MR.JUSTICE D. KRISHNAKUMAR

C.R.P.(NPD).No.4559 of 2017

S.Sankar

...Petitioner

Vs.

Sri Vedhavinayagar Koil
Represented by its Hereditary Trustee
Sanjeevi Chettiar,
Nethaji Road,
Manjakuppam,
Cuddalore.

...Respondent

Prayer: Civil Revision Petition has been filed under Article 227 of the Constitution of India, against the Fair order and decreetal order dated 7.9.2017 passed in unnumbered E.A.No. of 2017 in E.A.No.422 of 2016 in E.A.No.359 of 2016 in E.P.No.170 of 2010 in O.S.No.802 of 1990, on the file of the Principal District Munsif, Cuddalore.

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For Petitioner : Mr.T.R.Sundaram

For Respondent : Mr.R.Sunil Kumar

ORDER

This Civil Revision Petition has been filed by the petitioner against the Fair order and decretal order dated 7.9.2017 passed in unnumbered E.A.No. of 2017 in E.A.No.422 of 2016 in E.A.No.359 of 2016 in E.P.No.170 of 2010 in O.S.No.802 of 1990, on the file of the Principal District Munsif, Cuddalore.

2. The grievance of the petitioner before this Court, in the present Civil Revision Petition is that the Court below has passed the orders, without numbering the Executing application filed by the petitioner and therefore the order passed by the Court below is liable to be set aside.

3. Heard both sides.

4. While dealing a similar case, in ***K.Venkatesan and others Vs. E.Hemantharaj*** reported in ***CDJ 2016 MHC 5629***, this Court set aside the order passed in the un-unnumbered application, and to number the application and thereafter to pass orders on merits.

5. The learned counsel for the respondent has not disputed the aforesaid legal position and the same would apply to the present case.

6. In the light of the Judgment cited *supra*, this Court is inclined to pass the following order:

a) The Order passed in unnumbered E.A. in E.A.No.422 of 2016 in E.A.No.359 of 2016 in E.P.No.170 of 2010 in O.S.No.802 of 1990 dated 07.09.2017 is set aside.

b) The Executing Court is directed to number the Executing Application and pass orders in accordance with law, after providing an opportunity to the parties concerned, within a period of four weeks from the period of numbering the Executing Application.

c) After disposal of the Executing Application, both the parties undertakes before this Court that they will co-operate for the disposal of the Executing Petition. Recording the same, the Court below is directed to dispose of the Executing Petition, as expeditiously as possible.

D. KRISHNAKUMAR, J.

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d) It is open to the parties to file additional affidavit or documents (if any) within a period of one week from the date of receipt of a copy of this order and the same shall be considered in accordance with law.

In the result, this Civil Revision Petition is allowed. No costs.

21.12.2017

Index : yes/no
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Note: Issue order copy on 22.12.2017

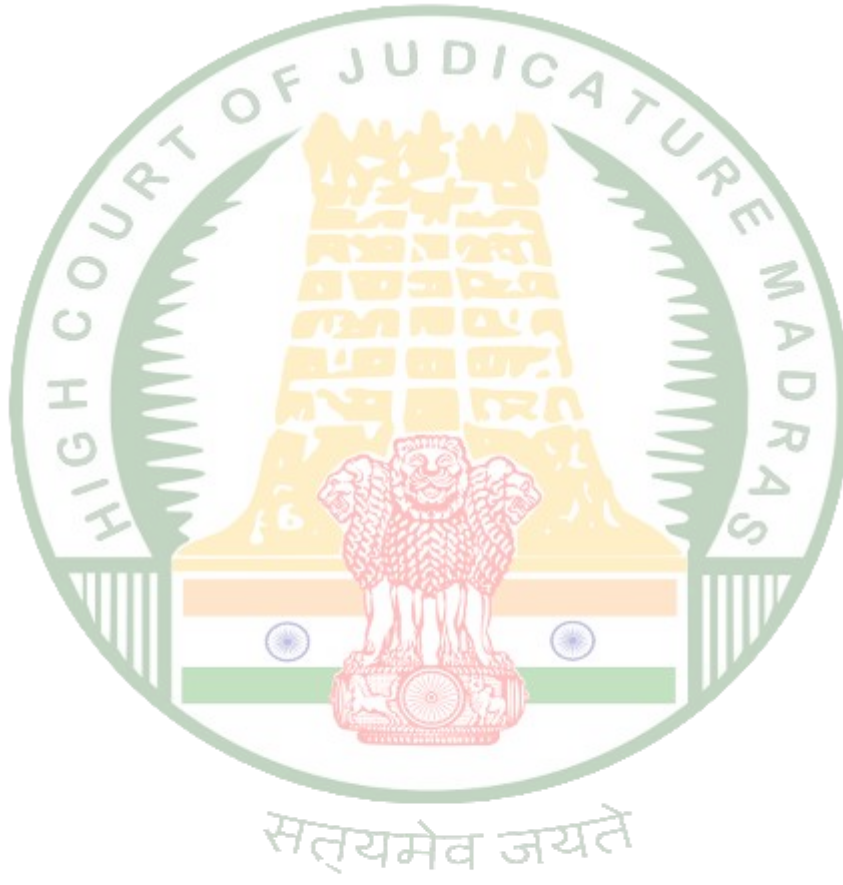
To

The Principal District Court,
Cuddalore.

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C.R.P.(NPD).No.4559 of 2017

24.10.2017



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