

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.6.2017

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

C.R.P.No.642 of 2016

Bangaru

...

Petitioners/Proposed
defendant

Vs.

1 Manavalan

...

1st Respondent/Plaintiff

2 Anbarasan

...

2nd Respondent/Defendant

This Civil revision is filed under Article 227 of Constitution of India to set aside the order, dated 22.6.2015 passed by the learned Sub Judge, Poonamallee in I.A.No.633 of 2014 in O.S.No.49 of 2007.

For Petitioner : Mr. R.Venkatavaradhan

For Respondent No.1 : Mr.R.Khapali

For Respondent No.2 : No appearance

ORDER

According to the petitioner, the first respondent has filed the suit against the second respondent for specific performance. An exparte decree has been passed by the learned Principal District

Judge, Tiruvallur in O.S.No.49 of 2007 on 5.3.2008. The petitioner herein filed an application in I.A.No.632 of 2015 to set aside the exparte decree and an application in I.A.No.633 of 2015 to implead the petitioner has second defendant in the said suit. By an order, dated 22.6.2015, the Court below dismissed the said applications. Challenging the said order, the petitioner has preferred the present Civil Revision petition.

2 According to the learned counsel for the petitioner, petitioner purchased the suit property on 2.9.2011 by registered sale deed executed by the first respondent. Pursuant to the judgment and decree passed in the aforesaid suit, sale deed was executed in favour of the first respondent on 23.4.2012. Only after the receipt of the notice in the E.P. proceedings, petitioner came to know about the exparte decree passed in the above suit and filed the instant applications namely, I.A.No.632 and 633 of 2015 in the suit for the aforesaid prayer before the Court below. Both applications were erroneously rejected by the trial court. Hence, the petitioner has preferred the present Civil Revision petition before this Court.

3 The learned counsel for the respondent would submit

that the applications filed by the petitioner in I.A.No.632 and 633 of 2015 have been rightly dismissed by the Court below. Further, it is also contended by the counsel for the respondent that the petitioner has filed the suit in O.S.No.420 of 2015 before the District Munsif Court, Ambattur for declaration and the same is pending. The copy of the plaint in O.S.No.420 of 2015 is also enclosed in the typedset of papers. Therefore, this Civil Revision petition is liable to be dismissed.

4 Heard the submissions made by the counsel for the petitioner and the counsel for the respondents and perused the materials on record.

5 As rightly pointed out by the counsel for the respondent that the petitioner has already filed a suit in O.S.No.420 of 2015 for declaration and permanent injunction and the same is pending before the District Munsif, Ambattur. Hence, it is clear from the fact that subsequent to the filing of I.A.No.632 and 633 of 2015 in the aforesaid suit, the petitioner has filed the suit in O.S.No.420 of 2015 before the District Munsif, Ambattur. Therefore, the contention of the petitioner is liable to be rejected and the order passed by the Court below is valid in law. Hence, there is no error or illegality in the order passed by the Court below.

D.KRISHNAKUMAR, J.

vaan

6 Accordingly, the Civil Revision Petition is dismissed. No costs. Connected miscellaneous petition is also dismissed.

23.6.2017

Speaking/Non Speaking order

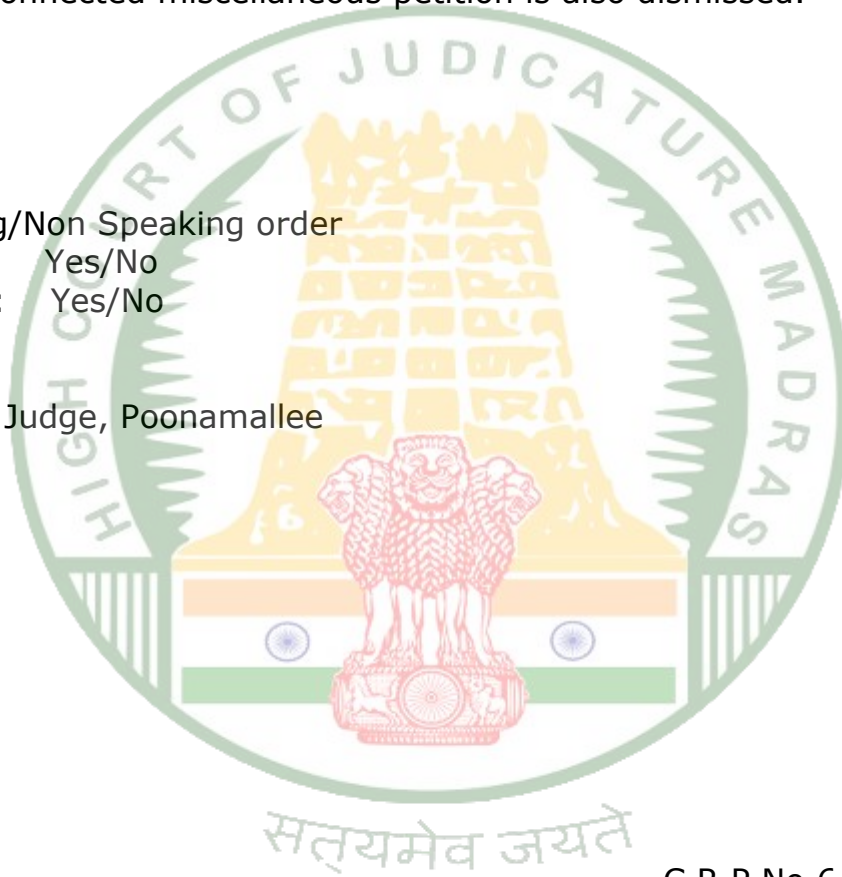
Index: Yes/No

Internet: Yes/No

vaan

To

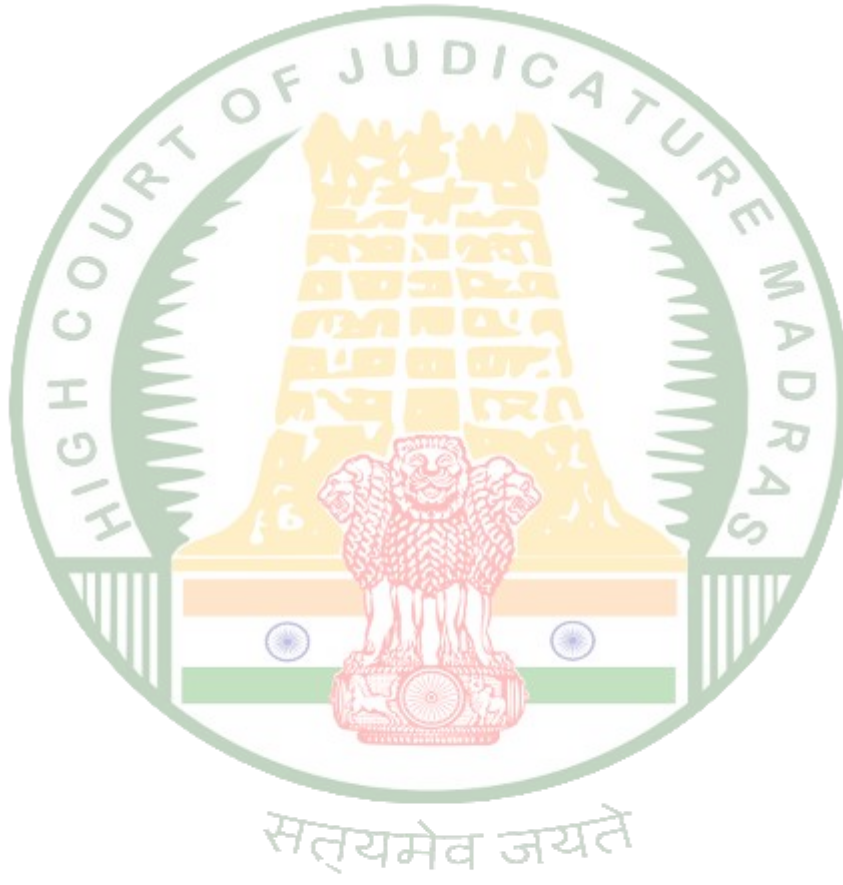
The Sub Judge, Poonamallee



C.R.P.No.642 of 2016

WEB COPY

23.6.2017



WEB COPY