

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.02.2017

CORAM

THE HON'BLE MR. JUSTICE M.V.MURALIDARAN

**CRP(PD)No.4525 of 2012
and
M.P.No.1 of 2012**

Rajendrna

.. Petitioner

Vs

1.Govindammal
2.K.Saroja
3.Ravichandran
4.Asokan

5.The District Collector,
Salem District.

6.The Revenue Divisional Officer,
Attur.

7.The Tahsildar,
Attur.

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the Fair and Decreetal order dated 21.12.2011 in I.A.No.1337 of 2011 on the file of District Munsif Court, Attur.

For Petitioner : Ms.A.Sathya Bama

For Respondents : No Appearance

ORDER

This Civil Revision Petition is directed against the Fair and Decreetal Order made in I.A.No.1337 of 2011 in O.S.No.170 of 2005 dated 21.12.2011 on the file of the learned District Munsif Court, Aattur.

2.The revision petitioner is the 1st defendant in O.S.No.170 of 2005 which was filed by the respondents 1 and 2 herein/plaintiffs for the relief of permanent injunction against the defendants from disturbing their possession and enjoyment over the suit property. Pending suit the plaintiffs have filed an application in I.A. No: 1337 of 2011 under section 151 of CPC, to remove the suit from the list and adjourn the case for ordinary trial.

WEB COPY

3.The said application was defended by the respondents/defendants, contenting that in the writ petition filed by plaintiffs before this Hon'ble Court in Writ Petition No.5665 of 2008,

challenging the order of the R.D.O. cancelling the Patta, no interim order was granted. Further in the said writ petition the plaintiffs have not stated anything about the present suit. Hence they prayed to dismiss the said application.

4.Considering the case on either side the trial Court has allowed the I.A.No.1337 of 2001 by order dated 21.12.2011, against which the present civil revision petition is filed by the revision petitioner/1st defendant.

5.I have heard Ms.A.Sathya Bama, learned counsel for the revision petitioner and perused the entire materials available on record. There is no representation on behalf of the respondents.

6.It is a suit for bare injunction filed by respondents 1 and 2 herein against the revision petitioner and others. In a suit for injunction possession alone has to be proved by the plaintiffs.

7.It is the contention of the respondents 1 and 2 herein that as against the order cancelling the Patta in the name of plaintiffs by the

R.D.O., Aattur, the plaintiffs filed writ petition before this Hon'ble Court and the same is pending. On that score the plaintiffs wanted to stay of their suit by removing the suit which was posted in the list and to adjourn the same for ordinary trial. The trial Court has simply accepted the case of the plaintiffs and allowed the said Interim Application. In my consider opinion the said approach of the Trial Court is not proper and the same is liable to be set aside for the reason that the plaintiffs have to establish their possession over the suit property by adducing oral documentary evidence and they cannot sought to stay of the suit merely because of the pendency of the aforesaid writ petition.

8.In view of the above I am of the considered opinion that the trial Court has committed an error in allowing application filed by the plaintiffs and the same is liable to be set aside, accordingly it is set aside.

9.In the result:

(a) this civil revision petition is allowed by setting aside the order and decree made in I.A.No.1337 of 2011 in O.S.No.170 of 2005 dated 21.12.2011 on the

file of the learned District Munsif Court, Aattur;

(b)the Trial Court is directed to dispose of the suit within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

13.02.2017

vs

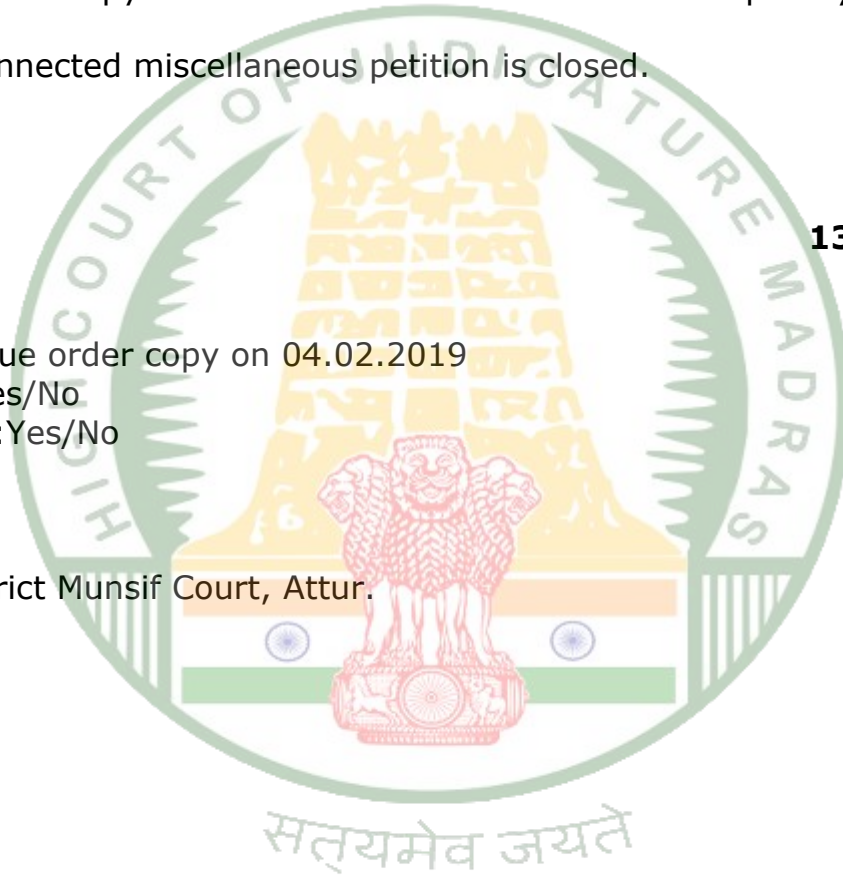
Note:Issue order copy on 04.02.2019

Index:Yes/No

Internet:Yes/No

To

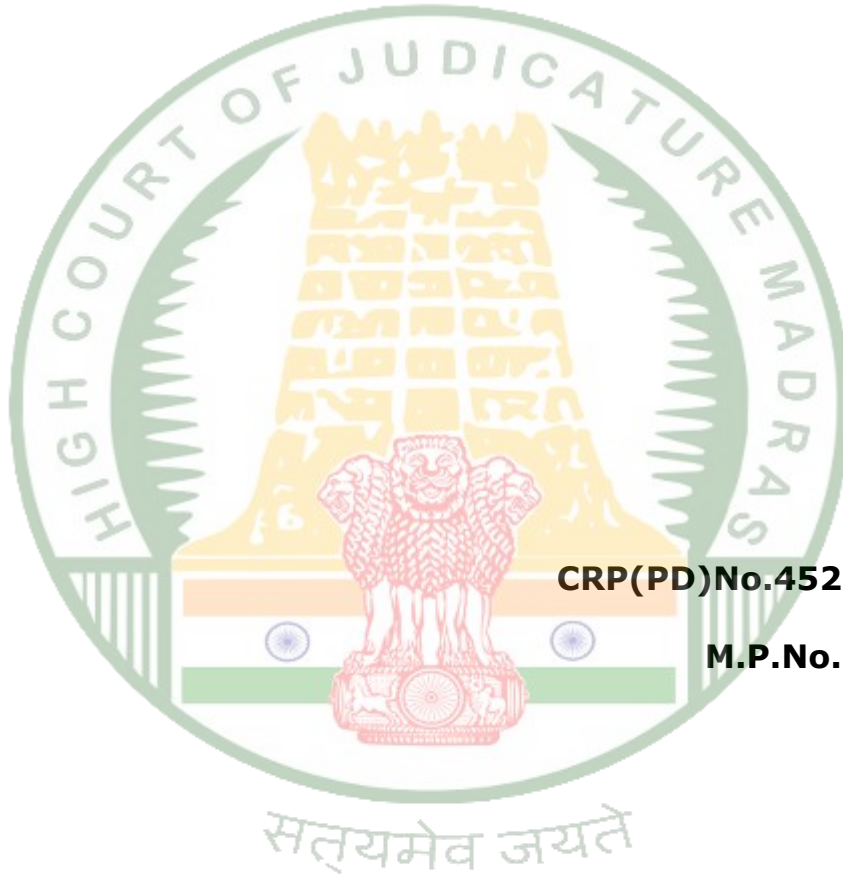
The District Munsif Court, Attur.



WEB COPY

M.V.MURALIDARAN,J.

VS



**CRP(PD)No.4525 of 2012
and
M.P.No.1 of 2012**

WEB COPY

13.02.2017