

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.03.2018

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

CRP(PD).No.1153 of 2018 and CMP.No.5972 of 2018

T.Pappaiah

.. Petitioner

Vs.

Gopalappa (Died)
Krisnappa (Died)

- 1.Ramachandrappa
- 2.Gopalakrishna
- 3.Sankar
- 4.Narayanappa
- 5.Nadesh
- 6.Sasikumar
- 7.Santhamma
- 8.Lachumamma
- 9.Lachumamma
- 10.K.Rajagopal
- 11.Kantha
- 12.K.Ramesh
- 13.Prabavathi
- 14.Bindhu
- 15.Madhubabu
- 16.Soba

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order, dated 09.03.2018 passed in I.A.No.143 of 2018 in O.S.No.40 of 2012 on the file of the SubCourt, Hosur, Krishnagiri District.

For Petitioner : Mr.K.Thiruvengadam

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ORDER

The Civil Revision Petition is taken up for final disposal at the admission stage itself.

2 According to the revision petitioner, the revision petitioner has filed a suit in O.S.No.143 of 2018 for declaration and permanent injunction. The suit is posted for trial and filing of proof affidavit of P.W.1. During cross examination, the learned counsel for the respondents has put a question to P.W.1, why general power of Attorney has been given to the 10th plaintiff i.e. Petitioner herein, then why should the plaintiffs 1 to 9 and 11/respondents have filed the suit along with the 10th petitioner/petitioner jointly. Therefore, petitioner herein felt that it would be appropriate to remove the plaintiffs 1 to 9 and 11 /respondents 1 to 9 (plaintiffs 1 and 2 died). Counter statement has been filed by the respondents stating that the suit itself is not maintainable and the same is liable to be dismissed. The court below dismissed the application by stating that when cross examination of P.W.1 was concluded, the present application has been

filed belatedly.

3 A perusal of the impugned order discloses the fact that when P.W.1 was cross examined, he has stated that the suit properties belongs to plaintiffs 1 to 9 and 11 and they executed power of attorney in favour of 10th plaintiff/petitioner herein and the same is still in force. P.W.1 further stated that he was not aware of the sale of the suit properties. He also stated that the suit is filed for declaration and permanent injunction in favour of the plaintiffs 1 to 9 and 11. Now, the petitioner claims suit properties belong to him by filing the present application to remove the plaintiff 1 to 9 and 11 as parties in the suit.

4 Considering the evidence adduced by P.W.1 that the suit properties belong to plaintiffs 1 to 9 and 11 and the suit is filed for declaration and permanent injunction in favour of the plaintiffs 1 to 9 and 11 and the claim of the petitioner that the suit properties belong to him, the present application is not maintainable. The court below has rightly dismissed the application. Further, the petitioner has not properly arrayed the parties in the cause title of the application filed before the court below. Therefore, there is no error or illegality in the order of the court below and the civil revision petition is liable to be dismissed.

D. KRISHNAKUMAR J.,

ah

5 In fine, Civil revision petition is dismissed. No costs.
Connected miscellaneous petition is closed.

22.03.2018

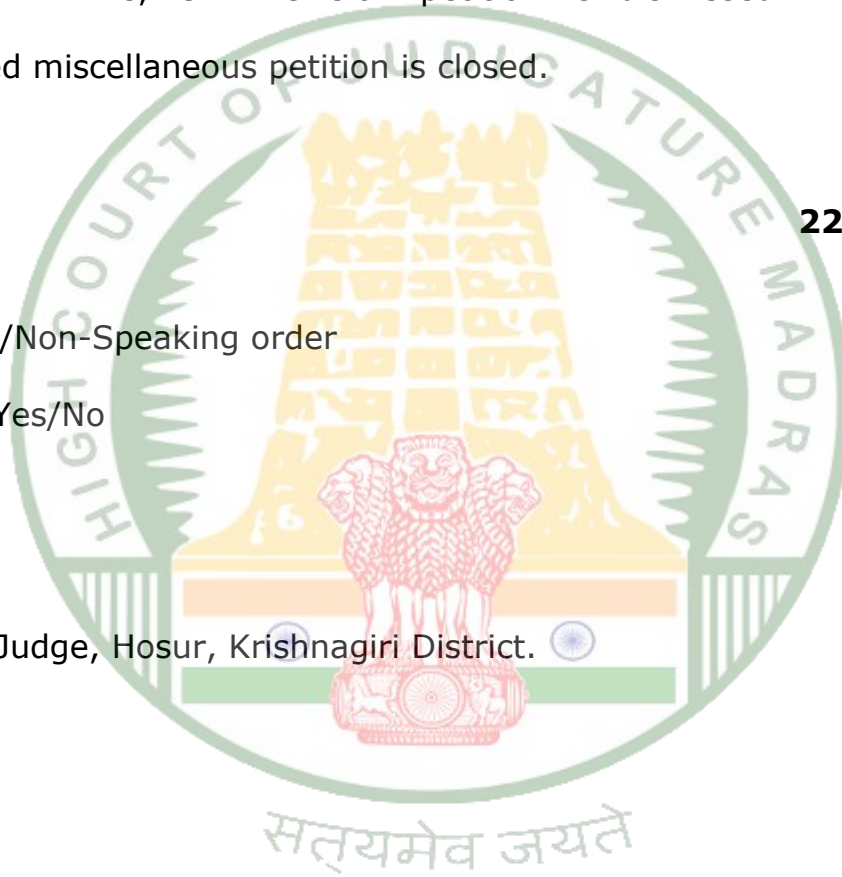
Speaking/Non-Speaking order

Index: Yes/No

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To

The Sub Judge, Hosur, Krishnagiri District.



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