

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 12.04.2018

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

C.R.P.(PD).No.1354 of 2018 and

C.M.P.No.7137 of 2018

1. K.R.Narayanasamy
2. N.Karthi

... Petitioners

Vs.

1. K.velliyangiri
2. Ravi @ Ravichandran
3. Subramaniam
4. Paappal @ Kaliyammal

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the Order in I.A.No.1107 of 2017 in O.S.No.328 of 2011 dated 11.01.2018 passed by the District Munsif-cum-Judicial Magistrate, Gobichettipalayam, Erode.

For Petitioners : Mr.K.Thilageswaran

ORDER

The relief sought for in this revision is to set aside the order made in I.A.No.1107 of 2017 in O.S.No.328 of 2011 dated 11.01.2018 passed by the District Munsif-cum-Judicial Magistrate, Gobichettipalayam, Erode.

2. The Revision petitioners are plaintiffs in O.S.No.328 of 2011 and respondents in I.A.No.1107 of 2017. The Revision petitioners have filed the suit against the respondents for declaration and permanent injunction in O.S.No.328 of 2011 on the file of District Munsif-cum-Judicial Magistrate, Gobichettipalayam, Erode. The respondents filed the Interlocutory application in I.A.No.1107 of 2017 before the Trial Court for examining the Tahsildar of Gobichettipalayam under Order XVI Rule 1&2 of CPC.

4. The learned District Munsif-cum-Judicial Magistrate, Gobichettipalayam, Erode, after hearing the arguments advanced on either side, by an order dated 11.01.2018, allowed the application in I.A.No.1107 of 2017 in O.S.No.328 of 2011.

5. Aggrieved against the said order dated 11.01.2018, the Revision petitioners are before this Court with the present civil revision petition.

6. Heard learned counsel for the petitioners and perused the available records.

7. It is admitted fact that in the suit during the trial, the petitioner side evidence was over and the respondent was in the witness box for Cross examination. At that stage, the respondents filed an application in I.A.No.1107 of 2017 for summoning the Tahsildar, Gopichettipalayam, Erode. The trial Court considered the facts and circumstances of the case and allowed the application.

8. In this case, main dispute is regarding issuance of patta and while transferring the name mentioned in patta whether the procedure adopted in the patta transfer proceedings correct or not. In order to establish the same, it is very much necessary to summon the Tahsildar. If the Tahsildar is Summoned and examined before the trial Court, no prejudice would be caused to the petitioner herein.

9. In view of the above discussions, this Court does not find any illegality or infirmity in the order passed by the trial court in I.A.No.1107 of 2017 in O.S.No.328 of 2011 dated 11.01.2018. Therefore, the petitioners should be given an opportunity to cross examine the witness and this Court finds no merits in the revision filed by the petitioners. Hence, the petition is liable to be dismissed.

P.VELMURUGAN, J.,

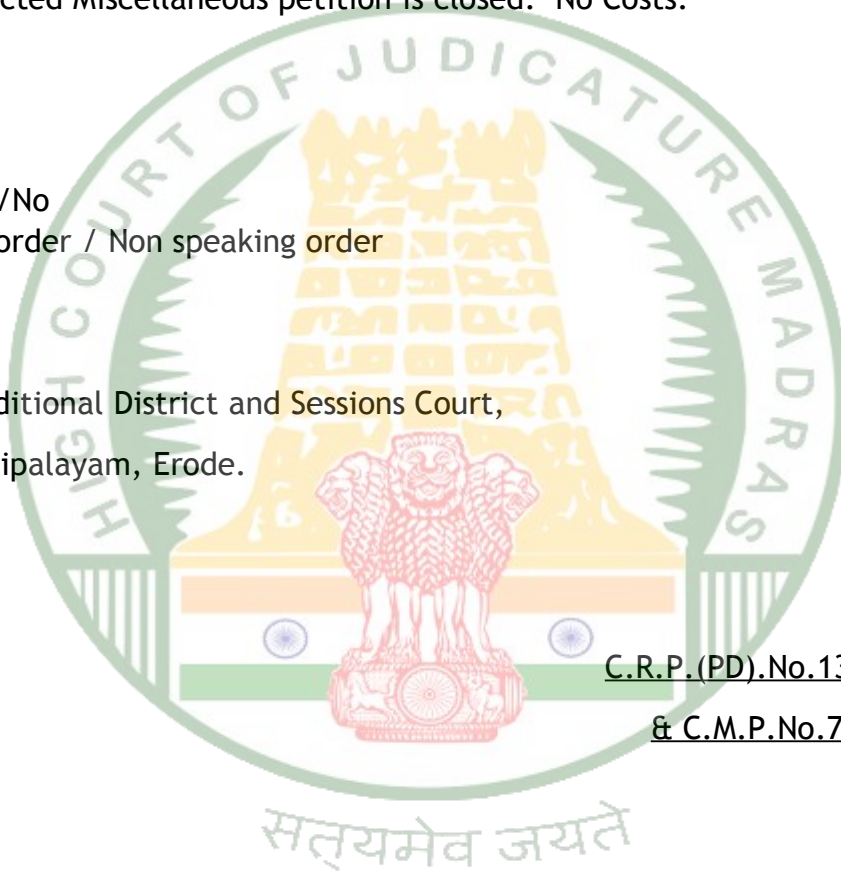
vum

9. In the result, the Civil Revision petition is dismissed. Consequently,
the connected Miscellaneous petition is closed. No Costs.

12.04.2018

Index:Yes/No
Speaking order / Non speaking order
vum

To
The III Additional District and Sessions Court,
Gobichettipalayam, Erode.

C.R.P. (PD).No.1354 of 2018& C.M.P.No.7137 of 2018

WEB COPY