

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.01.2018

CORAM:

THE HONOURABLE MR. JUSTICE **D. KRISHNAKUMAR**

CRP(PD).No.179 of 2018
and
CMP.No.1007 of 2018

N.Ramasamy

.. Petitioner

Vs

Amirthalingam

.. Respondent

PRAYER

Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decreetal order dated 19.09.2017 made in IA.No.533 of 2016 in OS.No.410 of 2010 on the file of the District Munsif Court, Jayankondam.

For Petitioner : Mr.M.Senthil Vadivu

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ORDER

The revision petitioner has filed a suit in OS.No.410 of

2010 before the District Munsif Court, Jeyankondam against the respondent for permanent injunction restraining the respondent and his men from interfering with the peaceful possession and enjoyment of the suit property. According to the revision petitioner, the revision petitioner is the absolute owner of the suit property measuring an extent of 140.9 sq.ft., comprised in Natham S.No.32 / 1, situated in T,Palur Village having obtained the same by way of registered partition deed dated 09.03.1964. In view of the wrong entry in the FMB sketch as well as patta, the revision petitioner has approached this Court by way of filing a writ petition in WP.No.26530 of 2009 dated 21.12.2009, wherein this Court has directed the Revenue Officers to consider the representation., the Revenue Authority passed order with liberty to the petitioner to approach Civil Court. In view of the above said order, the revision petitioner has filed a suit in OS.No.410 of 2010 before the District Munsif Court, Jeyankondam. Written statement has been filed by the defendant in the aforesaid suit. Now, the revision petitioner has filed an application under Order 1 Rule 10 (2) of the Civil Procedure Code to implead Revenue Officials as defendants in the aforesaid suit. The trial court has dismissed the said application. Hence, the revision petitioner has filed the present Civil Revision Petition before this Court.

2. According to the learned counsel for the revision petitioner, if the said application is allowed, no prejudice would be caused to the respondent. The relief as prayed for in the suit is for seeking permanent injunction and also for mandatory injunction to remove the pillar in the suit property. According to the revision petitioner, the defendant has encroached the suit property. Therefore, the Revenue Officials are also necessary party in the said suit to determine the issue involved in the suit.

3. Perusal of records would show that the trial court has dismissed the instant application by holding that the aforesaid proposed defendants are not necessary party on the reasons stated in the affidavit. However, the dispute arises in the suit property between the revision petitioner / plaintiff and the defendant, can be decided at the time of trial by adducing necessary oral and documentary evidence, Hence, the order of the court below is confirmed, there is no warrant to interfere with the orders passed by the court below. However, it is open to the revision petitioner to examine witnesses on his side, if necessary, including the witness of the officials, as per provision of law.

4. In the light of the facts and circumstances of the case, the Civil Revision Petition is dismissed with above observations. Consequently, the connected miscellaneous petition is closed. No costs.

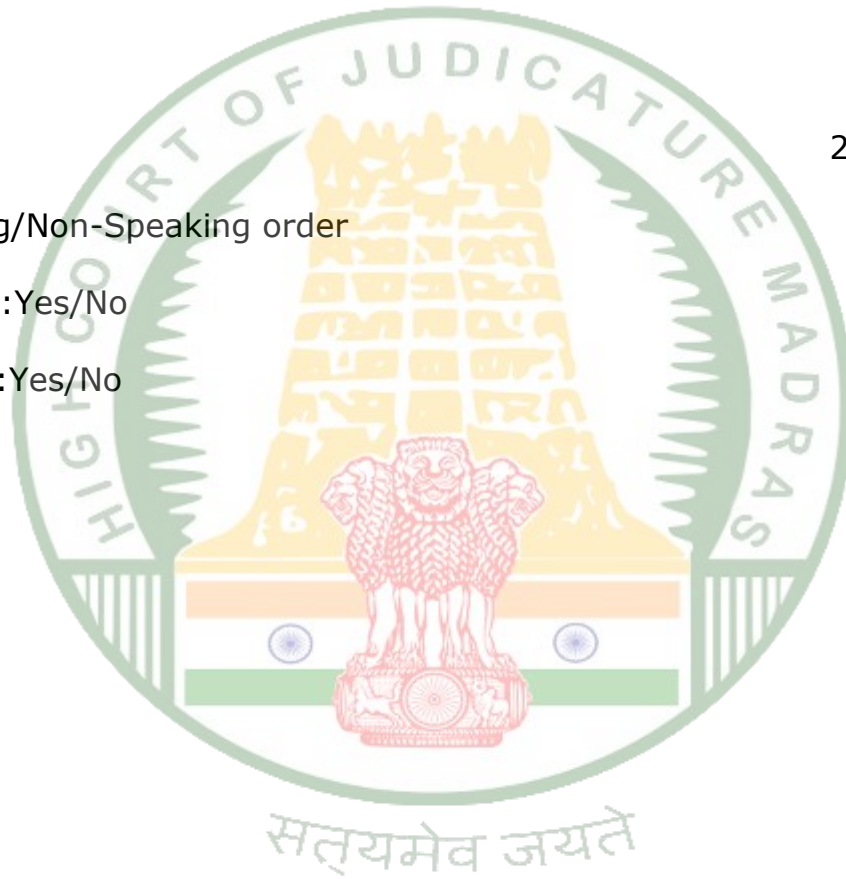
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Speaking/Non-Speaking order

Index :Yes/No

Internet:Yes/No

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To

The District Munsif Court,
Jayankondam.



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D. KRISHNAKUMAR J.,

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