

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.2732 of 2014
& M.P.No.1 of 2014

Subramanian

.. Petitioner

Vs.

Jothi

.. Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal order dated 08.04.2014 made in I.A.No.1330 of 2013 in O.S.No.75 of 2007 on the file of the Principal District Munsif Court, Pondicherry.

For Petitioner : Mr.B.Balavjayan

For Respondent : Mr.S.Subramanian

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ORDER

The Civil Revision Petition is filed against the fair and decretal order dated 08.04.2014 made in I.A.No.1330 of 2013 in O.S.No.75 of 2007 on the file of the Principal District Munsif Court, Pondicherry.

2.Heard the learned counsel for the petitioner as well as the respondent and perused the materials available on record.

3.The petitioner is defendant and respondent is plaintiff in O.S.No.75 of 2007 on the file of the Principal District Munsif Court, Pondicherry. The respondent/tenant filed the said suit for declaration with regard to lease hold right, use and occupation of the suit property as tenant, mandatory injunction directing the petitioner/landlord to restore the possession of the property to the respondent and for permanent injunction. The petitioner filed written statement on 08.06.2007 and issues were framed on 22.07.2008. The petitioner filed I.A.No.1330 of 2013 to frame additional issues with regard to limitation. According to the petitioner, the suit filed by the respondent is barred by Section 6 of the Specific Relief Act and suit has to be filed within six months from the date of the dispossession. The respondent has alleged that he

was dispossessed on 18.07.2006 and the suit ought to have been filed on 17.01.2007, but the suit was filed only on 20.01.2007 and the suit is barred by limitation. The respondent filed counter affidavit and denied all the allegations made by the petitioner. The learned Judge considering the averments made in the affidavit, counter affidavit and materials available on record, dismissed the application.

4. Against the said order of dismissal dated 08.04.2014 made in I.A.No.1330 of 2013 in O.S.No.75 of 2007, the present Civil Revision Petition is filed by the petitioner.

5. The grievance of the petitioner is that the respondent is claiming dispossession by the petitioner on 18.07.2006 and as per Section 6 of the Specific Relief Act, the suit is barred by limitation. The respondent has filed the suit under Order VII Rule 1 read with Section 26 C.P.C. The respondent has not filed the suit under Section 6 of the Specific Relief Act. Further, the respondent has not only claimed possession of the property, but also seeking declaration of his lease hold right and for permanent injunction. The petitioner has not raised issue of limitation in his written statement. In view of the same, no issues can be framed with regard to the

limitation.

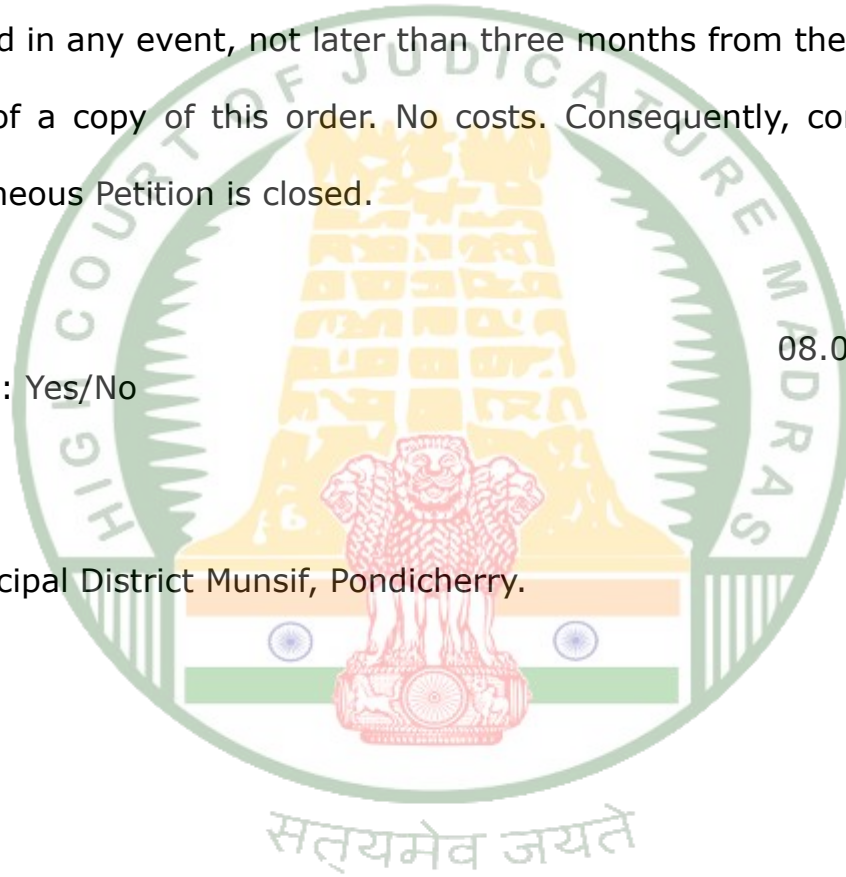
6.For the above reason, the Civil Revision Petition is dismissed. As the suit is of the year 2007, the learned Judge is directed to dispose of the suit in O.S.No.75 of 2007 on day-to-day basis and in any event, not later than three months from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

08.03.2018

Index : Yes/No
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To

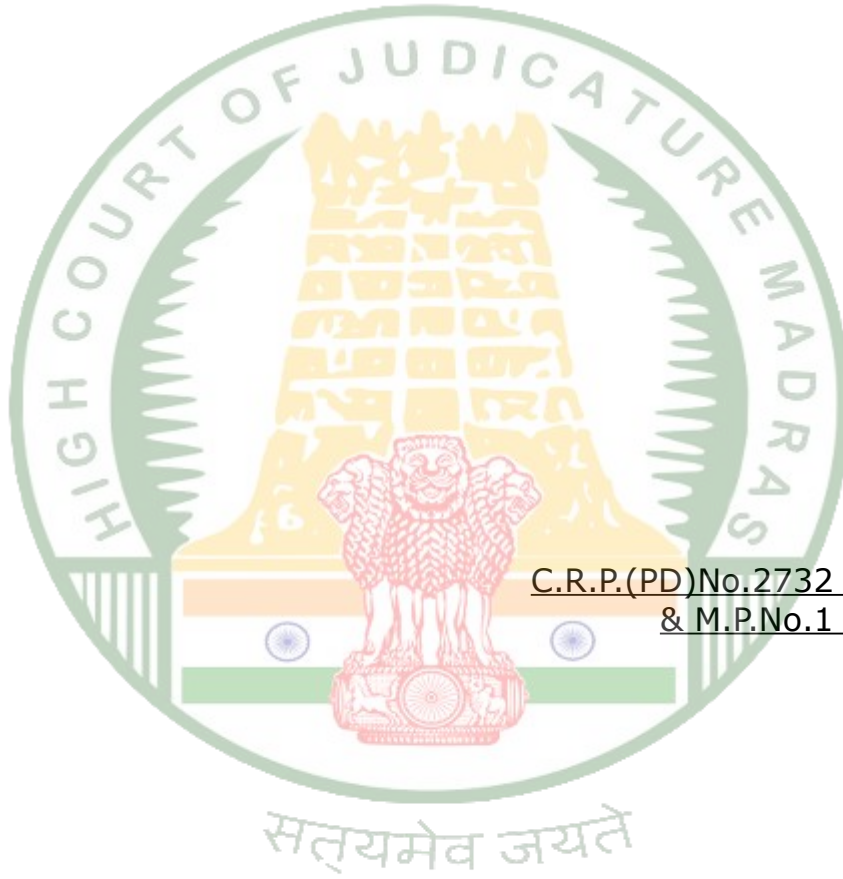
The Principal District Munsif, Pondicherry.



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V.M.VELUMANI, J.

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