

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.02.2018

CORAM:

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

CRP(PD).No.322 of 2018

and

CMP.No.1732 of 2018

1.N.Vasanth

2.S.Raghuraman

.. Petitioners

Vs

K.Balasubramaniam

.. Respondent

PRAYER

Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decreetal order dated 27.03.2017 made in IA.No.1698 of 2006 in OS.No.1595 of 2005 on the file of Principal District Munsif Court, Coimbatore.

WEB COPY

For Petitioners : Mr.Venkatasubban
for M/s.Sarvabhauman Associates

ORDER

According to the revision petitioners, the revision petitioners have filed a suit in OS.No.1595 of 2005 before the Principal District Munsif Court, Coimbatore for permanent injunction. In the aforesaid suit, the respondent has filed written statement on 16.12.2005. Thereafter, the respondent has filed an application in IA.No.1698 of 2006 to amend the written statement to seek counter claim, which was allowed. Against the said order, a Civil Revision Petition was filed before this Court, wherein this Court by order dated 03.08.2009, has allowed and remanded to the court below to consider the matter afresh, thereafter, the court below has allowed the application, without considering the contention of the revision petitioners. Therefore, the revision petitioners have filed the present Civil Revision Petition before this Court.

2. The learned counsel for the revision petitioners would submit that the present application filed by the respondent is barred by limitation, originally, the plaintiff filed the suit for permanent injunction. The learned counsel for the revision petitioner would submit that revocation of license was made in the year 2002. The present application has been filed in the year 2006. Therefore, instant application is barred by limitation. The aforesaid objection made by

the revision petitioner has not been considered by the court below with proper perspective.

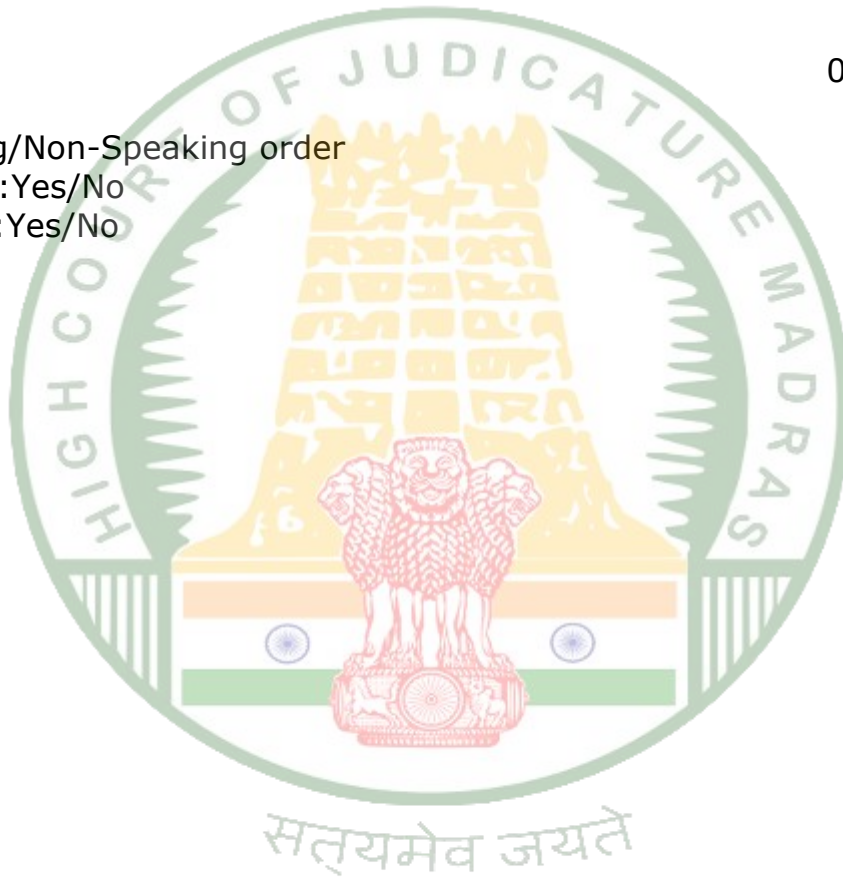
3. By considering the aforesaid fact, the above said suit filed in the year 2005 and the respondent filed the application in IA.No.1698 of 2006 to amend the written statement to include the counter claim in the year 2006. The revision petitioners have raised the dispute by stating that the additional written statement filed by the petitioner is barred by limitation. The aforesaid disputed fact can be considered only at the time of trial in the said suit. Therefore, the court below has rightly allowed the application. Hence, there is no error or illegality in the order passed by the court below. But, however, at this stage, the learned counsel for the revision petitioner would request this Court to direct the court below to frame additional issues on limitation raised by the revision petitioner in the suit.

4. On the request of the learned counsel for the revision petitioners, the Principal District Munsif Court, Coimbatore is directed to frame additional issues insofar as claim made by the respondent that the suit is barred by limitation and to proceed with the trial in the suit in accordance with law.

5. The Civil Revision Petition is disposed of with above direction. Consequently, the connected miscellaneous petition is closed. No costs.

01.02.2018

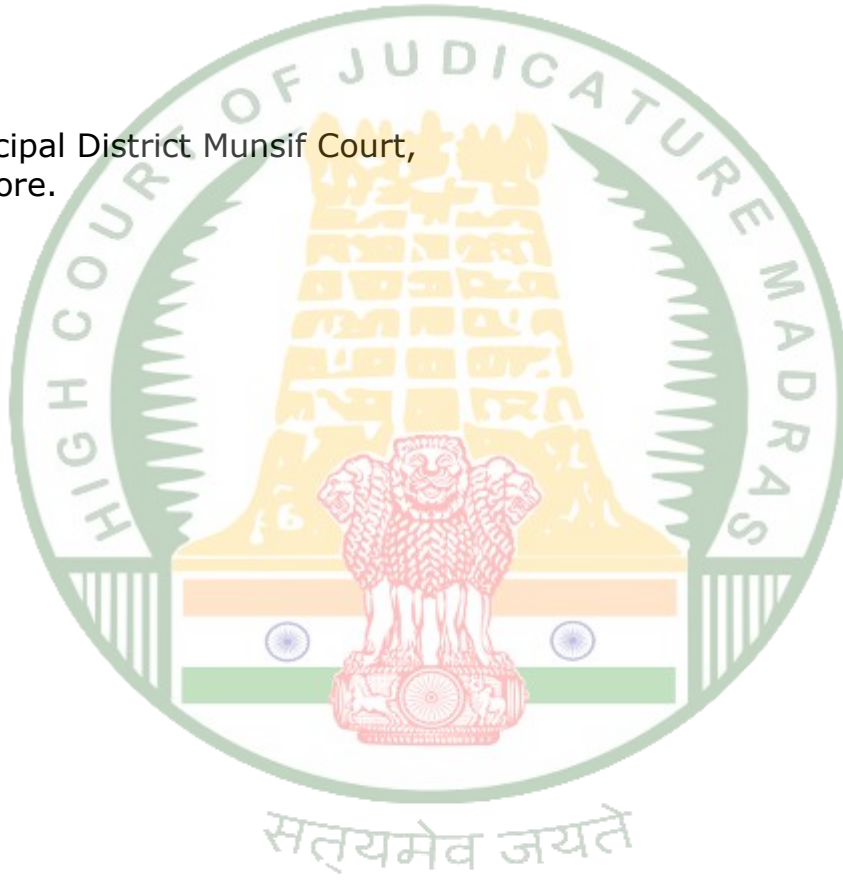
Speaking/Non-Speaking order
Index :Yes/No
Internet:Yes/No
lok



WEB COPY

To

The Principal District Munsif Court,
Coimbatore.



WEB COPY

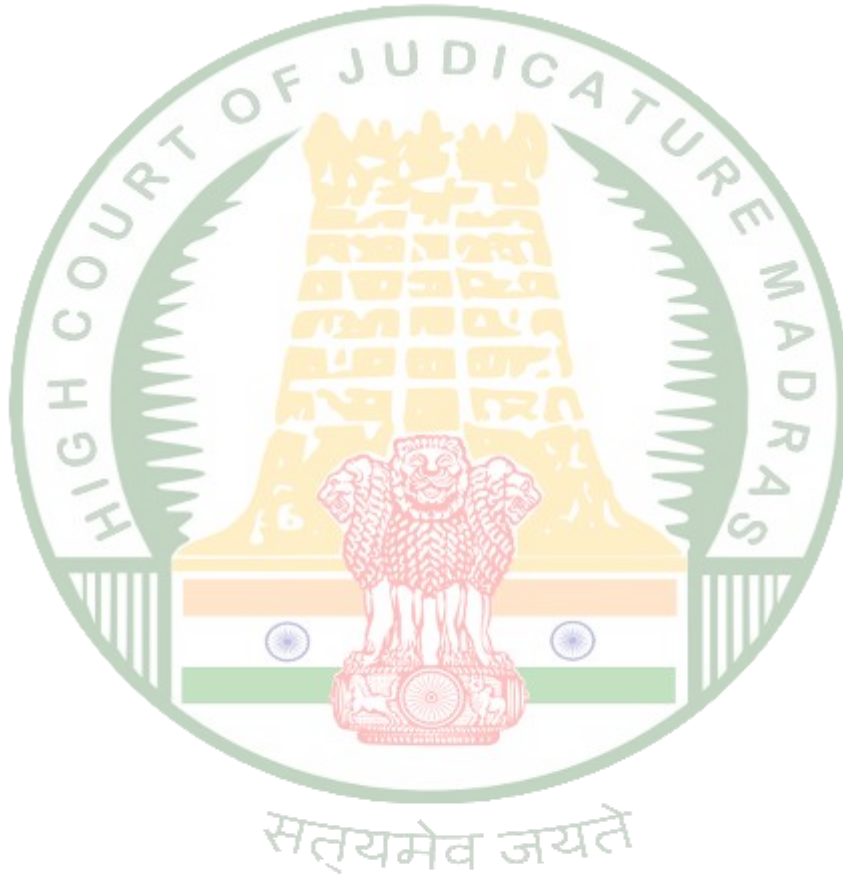
D. KRISHNAKUMAR J.,

lok



CRP(PD).No.322 of 2018
and CMP.No.1732 of 2018

WEB COPY



WEB COPY