

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.11.2018

CORAM :

THE HONOURABLE MR. JUSTICE M.S.RAMESH

CRP.(PD) No.3420 of 2016

and

C.M.P.No.17390 of 2016

N.Chellaperumaal

.. Petitioner

V.

L.Parthasarathy

.. Respondent

PRAYER : Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 17.08.2016 in I.A.No.111 of 2014 in O.S.No.18 of 2013 on the file of the learned Subordinate Judge, Cheyyar, Tiruvannamalai District.

For Petitioner : Mr.V.Raghupathi

For Respondent : Mr.N.Selvaraju

ORDER

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The order under challenge in the present revision is one rejecting the petitioner's application under Order 7 Rule 11 of the Civil Procedure Code. The main ground raised before the trial Court for invoking Order 7 Rule 11 is that the suit has been under valued.

2.Heard Mr.V.Raghupathi, learned counsel for the petitioner and Mr.N.Selvaraju, learned counsel for the respondent.

3.According to the learned counsel for the petitioner, the total extent of property is 12960 sq. feet and that the plaintiff had paid Court fee of Rs.3787.50/- alone whereas he ought to have paid a sum of Rs.30,302/-.

4.The learned counsel for the petitioner submitted that this aspect has not been dealt by the trial Court while disposing of the interim application in I.A.No.111 of 2014 under Order 7 Rule 11 of the Civil Procedure Code.

5.Today, when the matter is taken up for hearing, the learned counsel for the respondent admitted that there was a mistake committed by the counsel before the trial Court and that they are now willing to pay the difference in the deficit court fee. To substantiate such a submission, the learned counsel relied upon the judgment of this Court passed in CRP.4501 of 2017 [Mrs.Shylaja, Ms.J.Mamtha and H.Jayasurya V. 1.Dr.D.Vivekanandan and Dr.Anandhi Vivekanandan] dated 24.09.2018.

6.In response to such submissions, the learned counsel for the petitioner also admitted that if the deficit Court fee is paid, they have no objection and that the Civil Revision Petition could be closed with such an observation.

7.In view of the submissions made by both the learned counsels, I do not wish to analyse the discussions made by the Court below. The admissions made by both the learned counsels are hereby recorded. Consequently, the respondent herein/plaintiff is directed to pay a sum of Rs.26,515/- of the deficit Court fee in O.S.No.18 of 2013 before the learned Subordinate Judge, Cheyyar, Tiruvannamalai District, within a period of three weeks from the date of receipt of a copy of this order.

8.The respondent herein shall also make out a necessary application enclosing the copy of this order for paying the deficit Court fee and on receipt of such an application, the trial Court shall pass appropriate order as expeditiously as possible.

9. With the above observation and directions, the Civil Revision Petition is disposed of. Consequently, connected Miscellaneous Petition is closed. No costs.

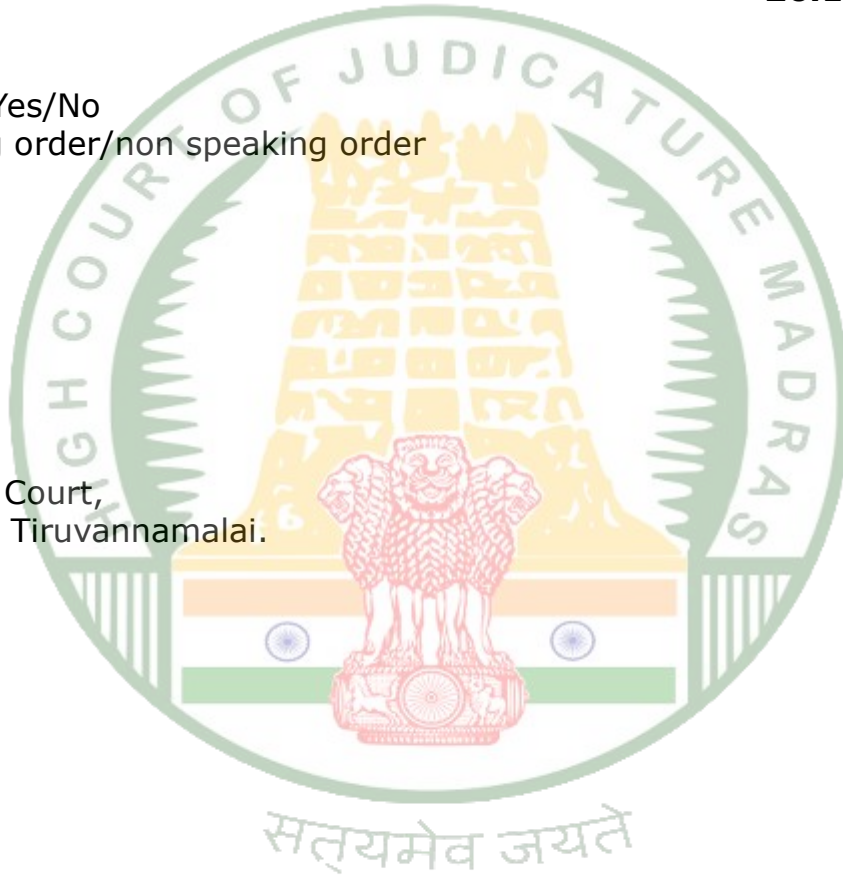
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Index : Yes/No
speaking order/non speaking order

DP

To

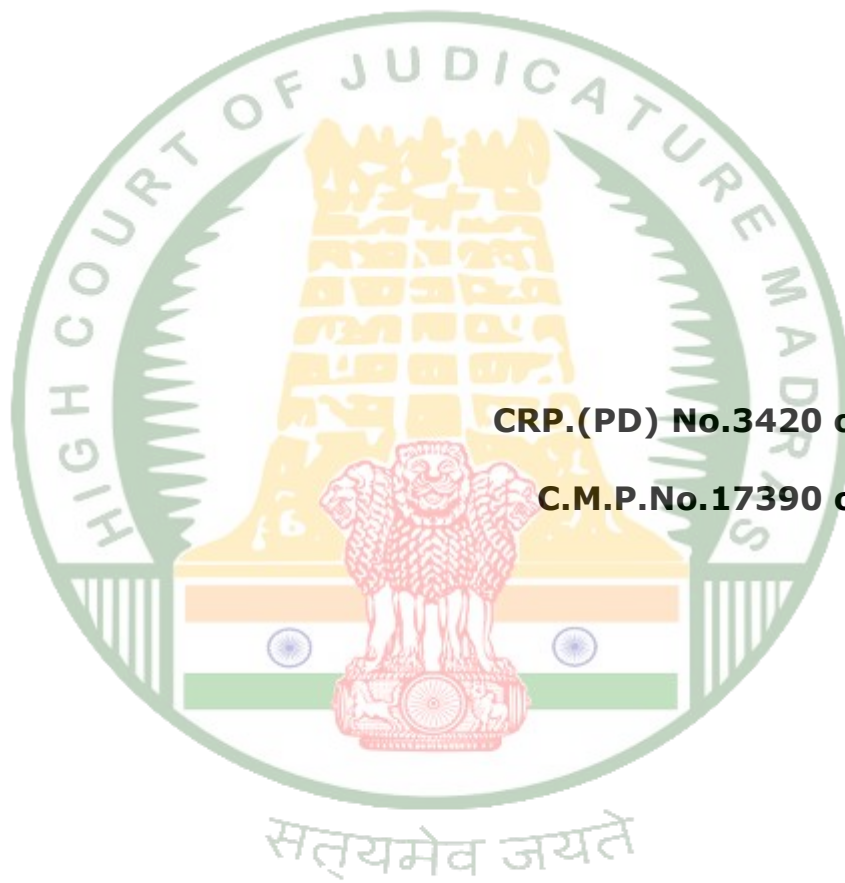
The Sub Court,
Cheyyar, Tiruvannamalai.



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M.S.RAMESH, J.

DP



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