

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 28.04.2018

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

C.R.P.(PD).No.369 of 2018 andC.M.P.No.1994 of 2018

R.Chinnasamy

... petitioner

Vs.

1. V.R.Sukrappan
2. Saraswathi
3. Amaravathi

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the fair and decreetal order dated 16.08.2017 dismissing Transfer Original petition No.1 of 2016 on the file of Principal District Judge, Coimbatore.

For petitioner : Mr.Om Prakash, Senior counsel for
M/S.Ramalingam and Associates

For Respondents : Mr.S.Mukunth

The seal of the High Court of Judicature at Madras is a circular emblem. It features a central yellow temple gopuram (tower) with a red lion standing in front of it. The words "HIGH COURT OF JUDICATURE MADRAS" are written in a circle around the central image. At the bottom, the Sanskrit motto "सत्यमेव जयते" (Satyameva Jayate) is inscribed in Devanagari script.
ORDER

The Civil revision petition is filed against the fair and decreetal order dated 16.08.2017, dismissing Transfer Original petition No.1 of 2016 on the file of learned Principal District Judge, Coimbatore.

2. The respondents herein filed the suit in O.S.No.567 of 2014 on the file of learned III Additional District Judge, Coimbatore, for partition of the suit.

3. Likewise, the revision petitioner herein filed another suit against the 1st respondent in O.S.No.538 of 2015 on the file of IIIrd Additional District Munsif, Coimbatore for eviction, which is also pending.

4. After completion of the pleadings, the revision petitioner filed the transfer application before the learned Principal District Judge, Coimbatore in Tr.O.P.No.1 of 2016 to transfer the suit in O.S.No.538 of 2015 pending on the file of the learned IIIrd Additional District Munsif, Coimbatore to try along with O.S.No.567 of 2014 pending on the file of learned IIIrd Additional District Judge, Coimbatore.

5. After hearing both sides, the trial Court concluded that even though the parties to the both suits are similar, the issues involved in both the suits are different and the same has to be tried separately, and there is no necessity for joint trial. Hence, the trial Court dismissed the transfer original petition in Tr.O.P.No.1 of 2016.

6. Aggrieved against the said order dated 16.08.2017, the revision petitioner is before this Court.

7. Heard the learned counsel for the petitioner and the learned counsel for the respondents and perused the available records.

8. It is an admitted fact that the first respondent filed the suit for partition against the revision petitioner. As against respondents, the revision petitioner filed suit for eviction of the respondents.

9. According to the learned counsel for the petitioner, the respondents are permissive occupants. Therefore, the learned counsel for the petitioner states that the trial Court failed to consider the facts, and dismissed the application.

10. Admittedly, the suit in O.S.No.567 of 2014 on the file of III Additional District Judge, Coimbatore is for partition, and the suit filed by the revision petitioner in O.S.No.538 of 2014 is pending on the file of the III Additional District Munsif Court, Coimbatore, for eviction. The petitioner claims that the respondents are permissive occupants. Therefore, the respondents have nothing to do with the partition. The outcome of the suit for

eviction will not bind on the parties in the partition suit. It is to be stated that only quantum of share alone will be declared in the preliminary decree and other equitable remedy will be worked out in the final decree proceedings.

11. In this case, the issues involved in both the suits are not one and the same and they are entirely different from each other. Therefore, the trial Court after considering all the above aspects, rightly dismissed the transfer application filed by the revision petitioner.

12. Therefore, this Court does not find any illegality, irregularity or perversity in the order passed by the trial Court in Tr.O.P.No.1 of 2016 and I find there is no merits in this revision petition.

13. In the result, the civil revision petition is dismissed. Consequently, connected Miscellaneous petition is closed. No costs.

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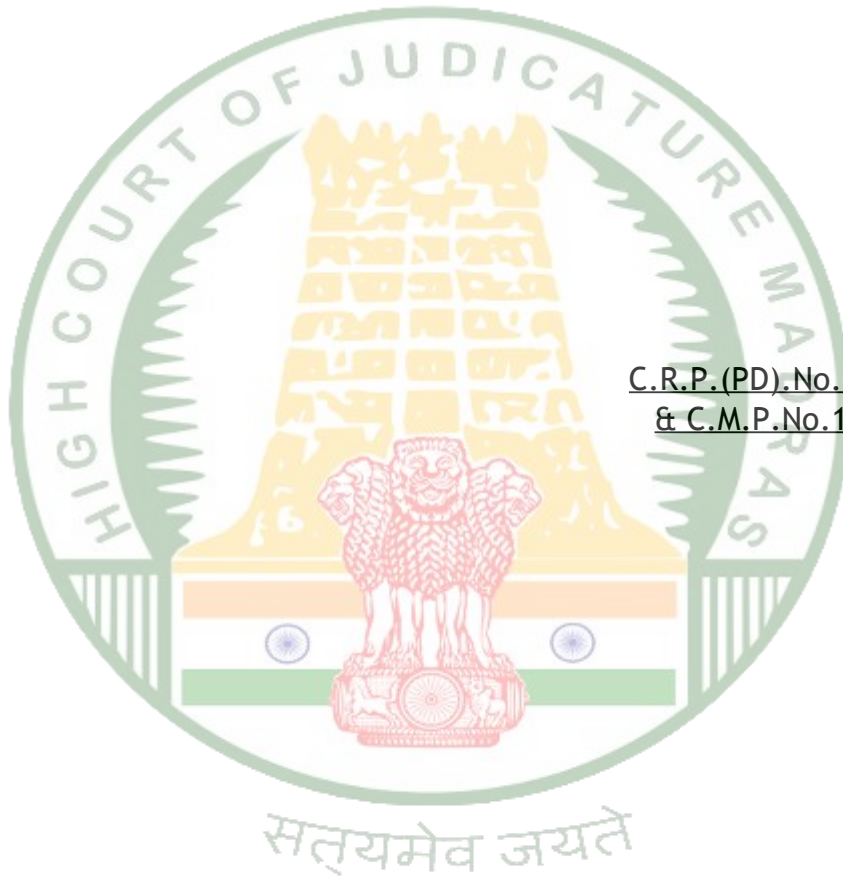
28.04.2018

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

To
The Principal District Munsif,
Cuddalore

P.VELMURUGAN, J.,

vum



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& C.M.P.No.1994 of 2018

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