

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.02.2018

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

CRP (PD) No. 472 of 2018
and
C.M.P. No.2496 of 2018

Thangavel

.. Petitioner

Vs

1. Shanmugam

2. The District Collector
Collectorate
Coimbatore District

3. The Tahsildar
Taluk Office
Sulur Taluk.

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and final order dated 22.11.2017 made in I.A.No.962 of 2017 in O.S.No.1039 of 2017 on the file of the District Munsif Court, Sulur.

For Petitioner

: Mr.K.S.Karthik Raja

ORDER

This revision arises against the fair and final order dated 22.11.2017 made in I.A.No.962 of 2017 in O.S.No.1039 of 2017 on the file of the District Munsif Court, Sulur.

2. The 1st respondent filed the suit in O.S. No.108 of 2010 before the District Munsif Court, Palladam, which was later re-numbered as O.S. No.1039 of 2017 on the file of District Munsif Court, Sulur seeking for declaration and injunction. Subsequently, the 1st respondent filed an application in I.A.No.962/2017 under Order 6 Rule 17 of CPC to amend the plaint. According to the petitioner, the Commissioner's report has been filed and in the aforesaid report it has been mentioned about the construction of the building in the suit property. Therefore, the said application filed by the respondent is barred by limitation and the same is liable to be dismissed. However, the court below has erroneously allowed the application. Against the said order, the present revision petition is filed before this Court.

3. On perusal of the order passed by the Court below, it is

seen that no materials has been placed to show that the building has been constructed prior to the filing of the suit. There is dispute with regard to the year of construction of the building in the suit property. The Court below has observed that the disputed fact can be decided at the time of trial of the suit.

4. Therefore, this Court is not inclined to interfere with the order of the court below. It is made clear that at the time of deciding the suit, the trial court shall pass orders on merits, uninfluenced by any of the observations made in this revision.

5. The Civil Revision Petition fails and the same is dismissed. Consequently, the connected Civil Miscellaneous Petition is closed. No order as to costs.

13.02.2018

Index : Yes/ No

Speaking order/ Non speaking order

[Issue order copy on or before 23.04.2018]

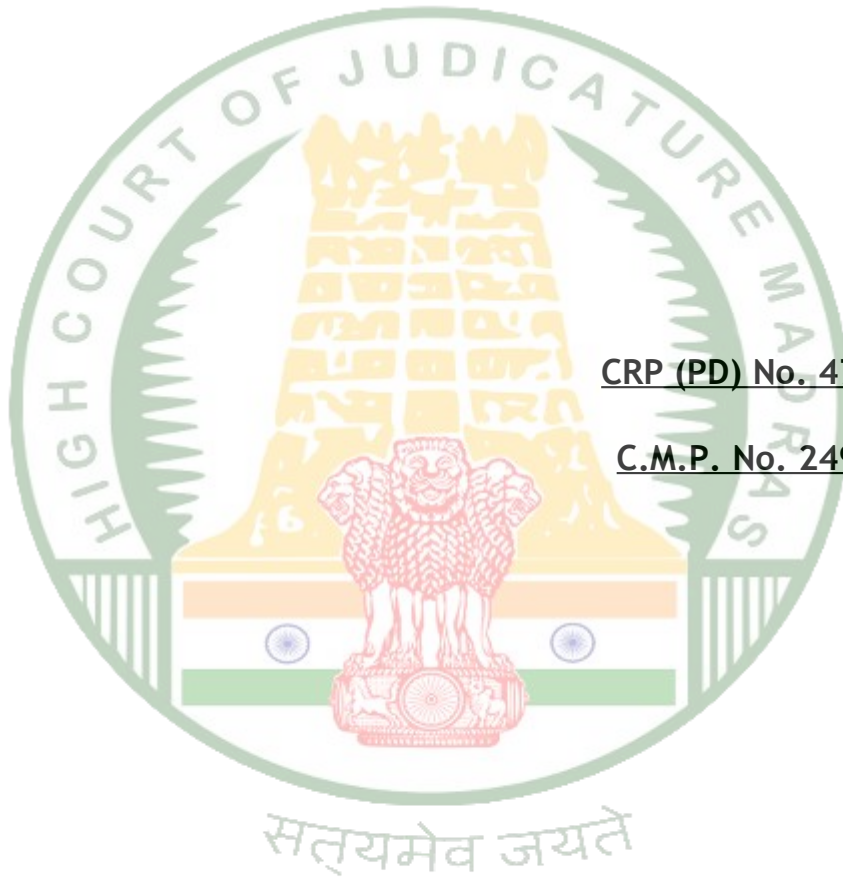
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To

The District Munsif Court,
Sulur.

D. KRISHNAKUMAR J.,

avr



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