

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2018

CORAM:

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

CRP(PD).No.632 of 2018
and CMP.No.3292 of 2018

1.K.T.C.Educational & Charitable Trust
Rep by its Managing Trustee T.Devaraj,
Poolavadi Village, Udumalaipet
2.T.Devaraj

.. Petitioners

Vs

Sri Balaji Re-Trading (P) Limited,
Rep. by its Director, P.Balasubramani,
Udumalai Town, Pollachi Road

... Respondent

PRAYER

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal orders dated 08.12.2017 made in IA.No.1793 of 2017 in OS.No.179 of 2013 on the file of the Court of the II Additional District & Sessions Judge, Tirupur.

For Petitioners : Mr.M.V.Krishnan

ORDER

According to the revision petitioners, the revision

<http://www.judis.nic.in> petitioners have filed a suit in OS.No.179 of 2013 for specific

performance and injunction. In the aforesaid suit, the revision petitioners have also filed an application in IA.No.1793 of 2017 to appoint an Advocate Commissioner to inspect the suit property and submit the estimate report of the value of the building and other infrastructures in the suit property with the assistance of PWD Civil Engineer. The trial court dismissed the said application. Hence, 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 aforesaid application has been filed for the purpose of assessing the value of the construction made in the suit property. No prejudice would be caused to the respondent, if the said application is allowed.

3. Heard the learned counsel for the revision petitioners and perused the materials available on record.

4. On perusal of the order passed by the court below, the suit has been filed in the year 2006 before the District Court, Coimbatore and thereafter, it has been transferred to Additional District and Sessions Judge, Tiruppur. The said suit is pending for more than 11 years and trial has been commenced. At this stage, the

revision petitioners have filed the instant application for the aforesaid prayer. Firstly, the application has been filed belatedly. Secondly, the revision petitioners have filed the suit for specific performance, without sufficient reasons for filing the application for appointment of Advocate Commissioner at the trial stage in the suit. By considering the relief as prayed for in the suit, the instant application filed by the revision petitioners does not have reasons for allowing the same. Therefore, there is no warrants to interfere with the orders passed by the court below and the Civil Revision Petition is liable to be dismissed.

5. The learned counsel for the revision petitioners requests this Court to direct the court below to dispose of the said suit within the time frame as may be fixed by this Court.

6. In view of the request made by the learned counsel for the revision petitioners and considering that the aforesaid suit is originally of the year 2006, this Court is inclined to direct the II Additional District & Sessions Judge, Tirupur to dispose of the above suit in OS.No.179 of 2013 on merits and in accordance with law as expeditiously as possible preferably on or before 31.08.2018. It is for the revision petitioners to raise the above contentions before the court below by adducing oral and documentary evidence at the time of trial in the suit.

7. Thus, the Civil Revision Petition is dismissed with above observations. Consequently, the connected miscellaneous petition is closed. No costs.

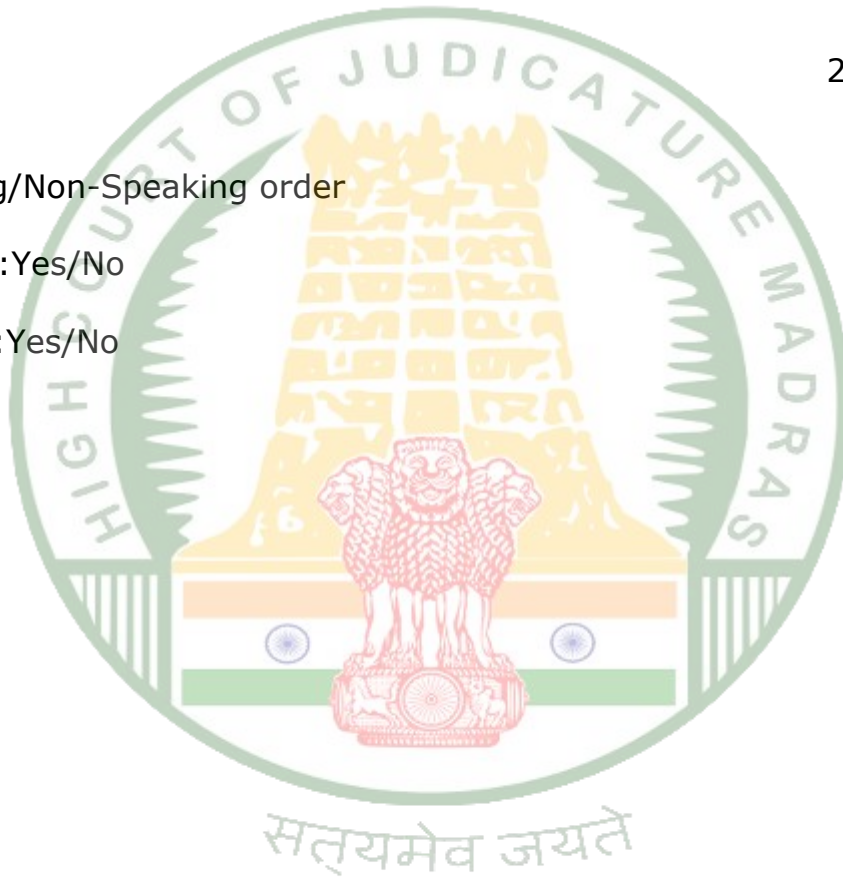
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Speaking/Non-Speaking order

Index :Yes/No

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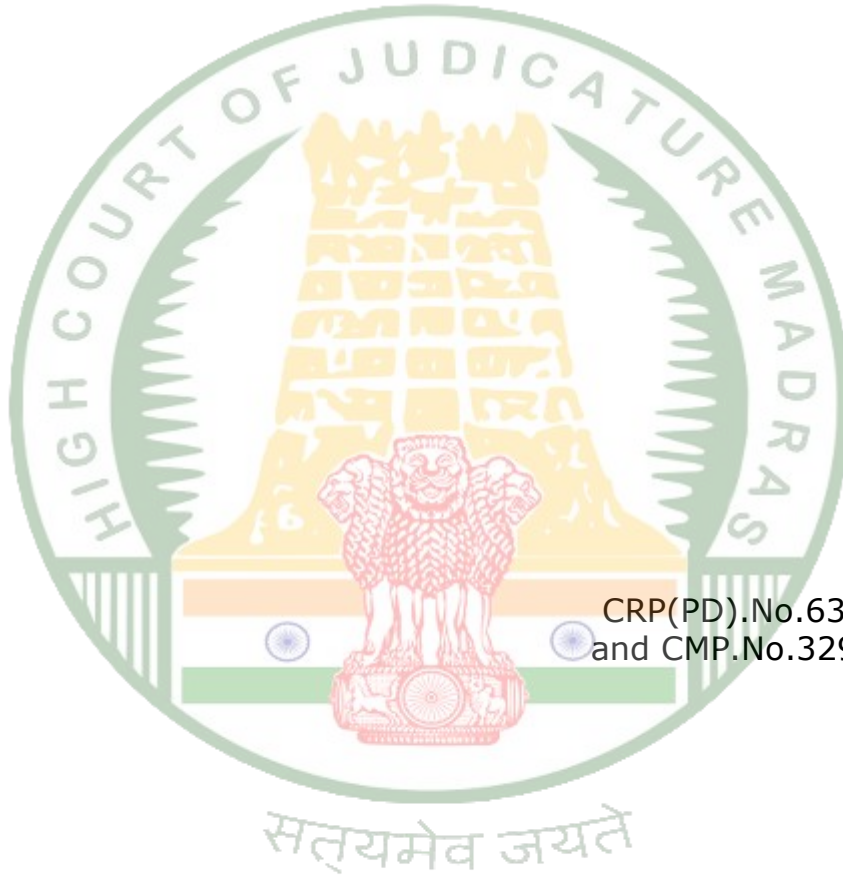
The Court of the II Additional District
& Sessions Judge,
Tirupur.



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D. KRISHNAKUMAR J.,

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