

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.12.2018

CORAM

THE HONOURABLE MR. JUSTICE M.S. RAMESH**C.R.P.(NPD).No.2933 of 2018**

Srinivasan,
S/o.Govindaraj,
Kurumpirai Village,
Salavakkam, Uthiramerur Taluk,
Kancheepuram District. ... Petitioner

Vs

S.M.Hussain,
S/o.Mohammed Saliya Sahbe,
Bazaar Street,
Uthiramerur Taluk,
Kancheepuram District. ... Respondent

PRAYER: Civil Revision Petition is filed under Article 115 of Civil Procedure Code, praying against the Fair and Decretal order of the Learned Subordinate Judge, Kancheepuram made in I.A.No.286 of 2014 in A.S.No.27 of 2014 by its order dated 19.09.2016.

For Petitioner : Mr.M.Balachandar

For Respondent : Mr.A.Lakshminarasiman

ORDER

As against the decree for declaration and permanent injunction obtained in favour of the petitioner herein, the respondent had filed an Appeal in A.S.No.27 of 2014. Pending the appeal, the First Appellate Court had suspended the injunction and decree through an order dated 19.09.2016 in I.A.No.286 of 2015 which is under challenged in the present revision.

2. The First Appellate Court, by observing that the appellant had produced copies of the sale deed, evidencing that the suit property stands in his name, as well as the Revenue records, namely the Patta, had come to a conclusion that the appellant had established sufficient cause to stay the execution of the decree.

3. The learned counsel for the petitioner submitted that he had acquired right and title over the property by way of oral and adverse possession and in view of the evidences of PWs.1 to 4, he had a *prima facie* case in his favour and as such, the First Appellate Court ought not to have suspended the decree.

4. In my view, when the respondents herein had challenged the decree, the grounds put forth by the petitioner herein in the present case is the subject matter of the appeal and when a *prima facie* view has been taken by the First Appellate Court that there was sufficient cause to suspend the decree, no interference to the same need be required. Nevertheless, the learned counsel for the petitioner submits that in view of the order of suspension, the respondent herein is preventing them from using the passage. This is disputed by the respondent herein. In order to bring quietus to such a dispute, the ends of justice would be met, if the appeal suit itself is directed to be disposed of as expeditiously within stipulated time.

5. It is seen that the appeal was filed on 08.09.2014 and the same is pending for more than two years. It is also brought to the notice of this Court that the appeal suit itself is now at the stage of arguments.

6. In the light of the above observations, no interference is

required on the order passed by the First Appellate Court in I.A.No.286 of 2015 dated 19.09.2016. Nevertheless, by taking into account that the suit is at the stage of arguments, the learned Subordinate Judge, Kancheepuram, shall endeavour to complete the appeal proceedings as expeditiously as possible, in any event, within a period of two months from the date of receipt of a copy of this order.

7. Accordingly, the **Civil Revision Petition stands disposed of.** No costs.

06.12.2018

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Index : Yes/No

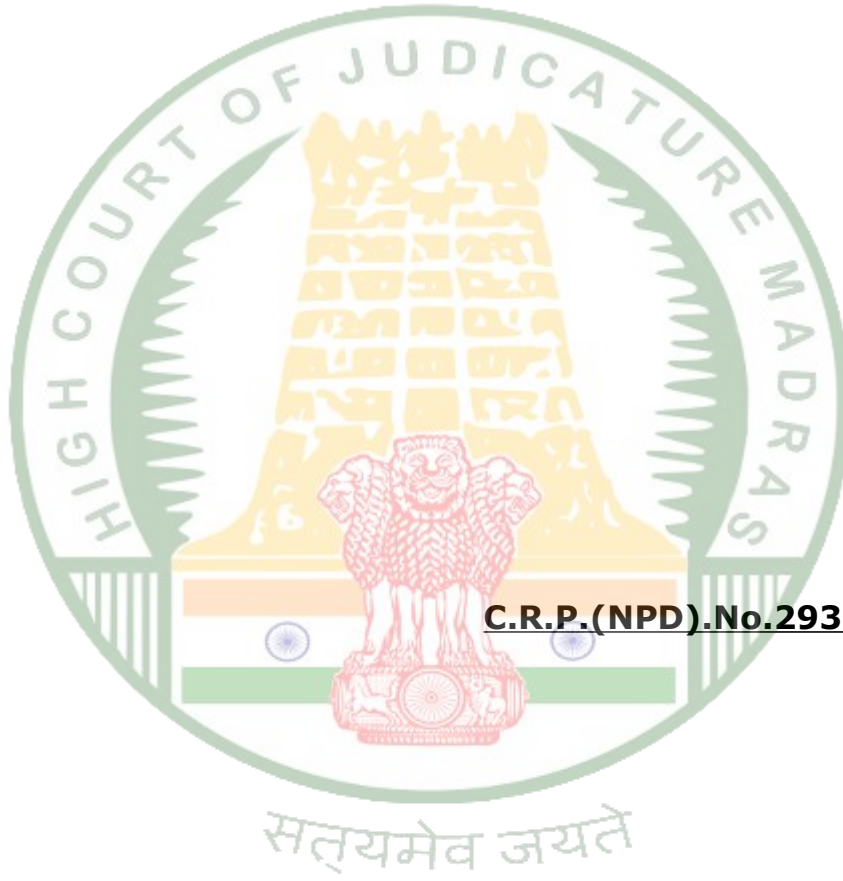
Speaking/Non-speaking order

To,

The Learned Subordinate Judge, Kancheepuram.

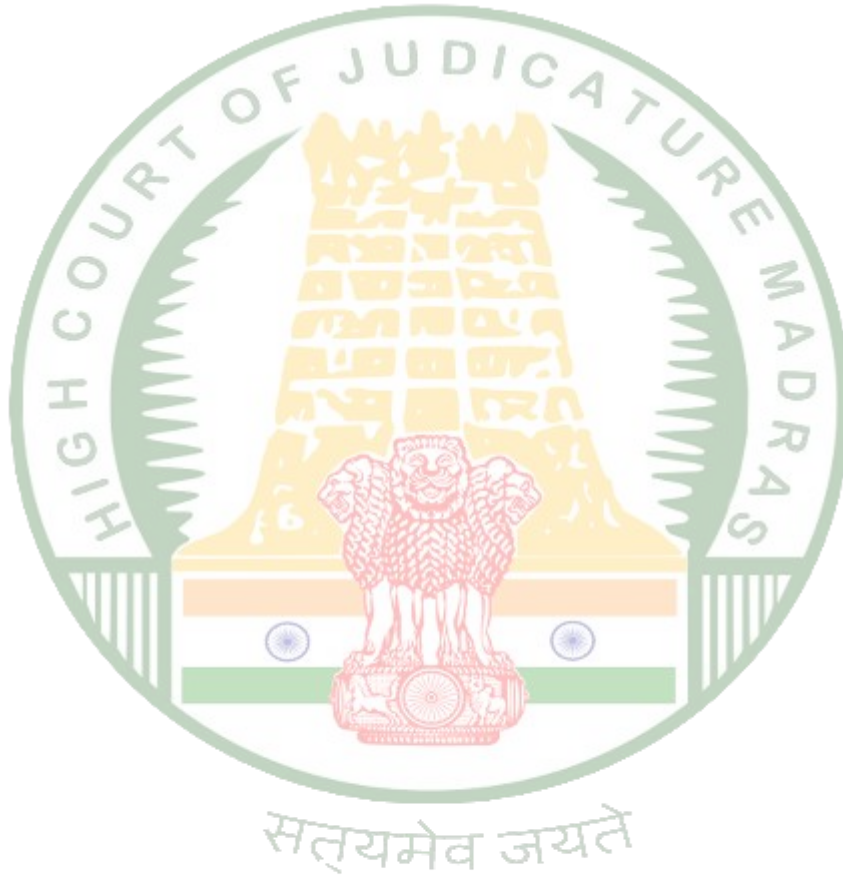
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M.S.RAMESH.J,
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C.R.P.(NPD).No.2933 of 2018

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