

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.04.2019

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

C.R.P.(NPD).No.1283 of 2019

Santhi Kumar

... Petitioner

Vs.

Nil

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India praying to allow this revision petition by setting aside the order and decreetal order dated 31.10.2018 passed in O.P.No.79 of 2018 on the file of Additional District (Fast Track) Court, Mettur.

For Petitioner : Mr.P.B.Balaji

सत्यमेव जयते

ORDER

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The civil revision petition has been filed against the order and decreetal order dated 31.10.20185 passed in Probate O.P.No.79 of 2018 on the file of the Additional District (Fast Track) Court, Mettur.

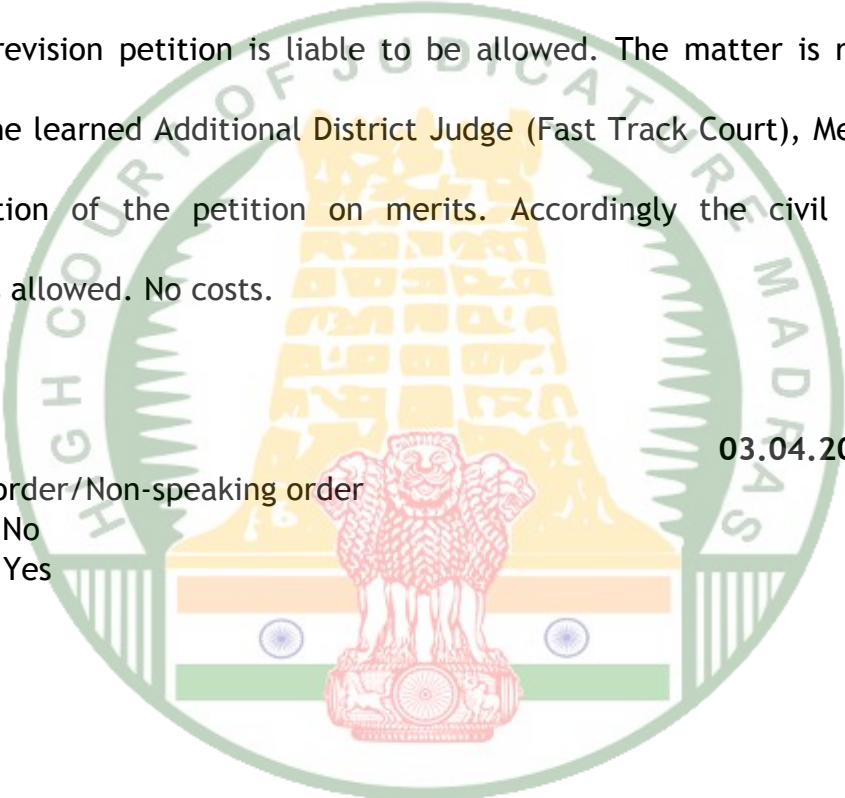
2. Probate O.P.No.79 of 2018 has been filed by the revision petitioner

seeking probate of the Will executed by Rajalakshmi dated 22.09.2002 which was executed by the testator in respect of her properties both movable and immovable. The immovable property which is the subject matter of the Will is situated at Raman Nagar, Veerakkalpudud Village, Mettur taluk, Salem district. Since the property was situated within the jurisdiction of the learned Additional District Court, Mettur, the revision petitioner has filed the petition before the Additional District Court, Mettur. In fact, the provision of Section 270 of Indian Succession Act 1925 provides the jurisdiction of the Court on the basis of the permanent residence of the deceased or where the immovable/movable property is situated. In fact, it is with reference to the situation of the property that the petitioner has moved before Additional District (Fast Track) Court, Mettur. The learned Judge, however, on an erroneous consideration of Section 270 of Indian Succession Act 1925 has proceeded to observe that in order to come within the jurisdiction of the Court at Mettur, two conditions have been fulfilled namely the residence of the testator should be within the jurisdiction of the Court and the movable or immovable property should also be within the jurisdiction of the said Court. The learned Judge has overlooked/misconstrued the provisions of Section 270 of the Act which reads as follows, the testator or intestate, as the case may be at the time of his demise had a fixed place of abode or any property movable or

immovable within the jurisdiction of the said Court. The learned Judge has overlooked the comma between the two conditions. The learned Judge erred in not correctly looking into the provision and invocation of jurisdiction of Court at Mettur by the petitioner is correct and therefore, the civil revision petition is liable to be allowed. The matter is remitted back to the learned Additional District Judge (Fast Track Court), Mettur for consideration of the petition on merits. Accordingly the civil revision petition is allowed. No costs.

03.04.2019

Speaking order/Non-speaking order
Index : No
Internet : Yes
dpq

The seal of the High Court of Madras is a circular emblem. It features a central yellow temple gopuram (tower) with a red lion capital on top. Below the lion capital is a red wheel (Chakras) and a red lotus. The entire emblem is set against a green background with a white border. The words "HIGH COURT OF JUDICATURE MADRAS" are written in a circular path around the emblem. Below the emblem, the Sanskrit motto "सत्यमेव जयते" (Satyameva Jayate) is written in Devanagari script.

WEB COPY

P.T.ASHA.J

dpq

To

The learned Additional District Judge
(Fast Track Court), Mettur



C.R.P.(NPD).No.1283 of 2019

WEB COPY 03.04.2019