

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2019

CORAM :

THE HON'BLE MR. JUSTICE M.DURAI SWAMY

C.R.P.(NPD).No.2180 of 2015 and
M.P.No.1 of 2015

M/s. Fisherman's Cove – Taj Oriental Hotels Limited,
Rep. By its Managing Director,
No.47, Paramount Plaza,
M.g. Road, 3rd Floor,
Nungambakkam,
Chennai - 600 032.

... Petitioner

v.

1. Harikrishnan
2. Jayavelu
3. The President
Kovalam Panchayat,
Chengalpattu Taluk.
4. The Commissioner,
Thiruporur Panchayat Union,
Thiruporur,
Chengalpattu.
5. The Member Secretary,
Mamallapuram Local Planning Authority,
Chengalpattu.
6. The Tahsildar,
Chengalpet Taluk,
Chengalpattu.

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7. The District Collector,
Kancheepuram.

8. M.Sikkandar

9. B. Anbazhagan

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and final order dated 02.06.2015 passed in I.A.No.96 of 2015 in A.S.No.28 of 2015 on the file of the Subordinate Judge, Tambaram.

For Petitioner : Mr.R.Subramanian

For Respondents : Mr.S.Ramesh – for R1 & R2

Mr. N. Parthasarathi
Government Advocate – for R4 to R7

Mr.R.M.Muthukumar – for R3

No Appearance – for R8 & R9

ORDER

Challenging the fair and final order passed in I.A.No.96 of 2015 in A.S.No.28 of 2015 on the file of the Subordinate Court, Tambaram, the 4th defendant has filed the above Civil Revision Petition.

2. The respondents-plaintiffs filed the suit in O.S.No.3 of 2011 on the file of the District Munsif Court, Chengalpet, for declaration, permanent injunction, mandatory injunction and for other reliefs. After contest, the Trial Court, decreed the suit, by its Judgment and Decree dated 15.04.2015.

3. Aggrieved over the Judgment and Decree passed by the Trial Court, the 4th defendant preferred an appeal in A.S.No.28 of 2015 before the Subordinate Court, Tambaram. In the said appeal, the 4th defendant also filed an application in I.A.No.96 of 2015 under Order 41 Rule 5 of Civil Procedure Code to stay the operation of the Judgment and decree passed by the Trial Court in O.S.No.3 of 2011 since the Lower Appellate Court has not granted any interim order, the 4th defendant has filed the above Civil Revision Petition.

4. On a perusal of the materials available on record, it is clear that the plaintiffs have obtained a decree for mandatory injunction. That being the case, the Lower Appellate Court should have granted an order of interim stay, otherwise, the appeal filed by the 4th defendant would become infructuous.

5. This Court, by order dated 11.06.2015, granted an order of interim stay, which was subsequently extended and the same is in force till this date.

6. In these circumstances, I am of the view that since the appeal in A.S.No.28 of 2015 is pending from 2015, the Lower Appellate Court can be directed to dispose of the appeal within a time frame and till such time, the order of interim stay granted by this Court may be directed to be continued in the First Appeal also.

6. Accordingly, I direct the Subordinate Judge, Tambaram, to dispose of the appeal in A.S.No.28 of 2015 on merits and in accordance with law, within a period of three months from the date of receipt of a copy of this order. Till the disposal of the appeal in A.S.No.28 of 2015, there shall be an order of interim stay of the operation of the Judgment and decree passed in O.S.No.3 of 2011 on the file of the District Munsif Court, Chengalpet, in I.A.No.96 of 2015.

With these observations, the Civil Revision Petition is disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

28.11.2019

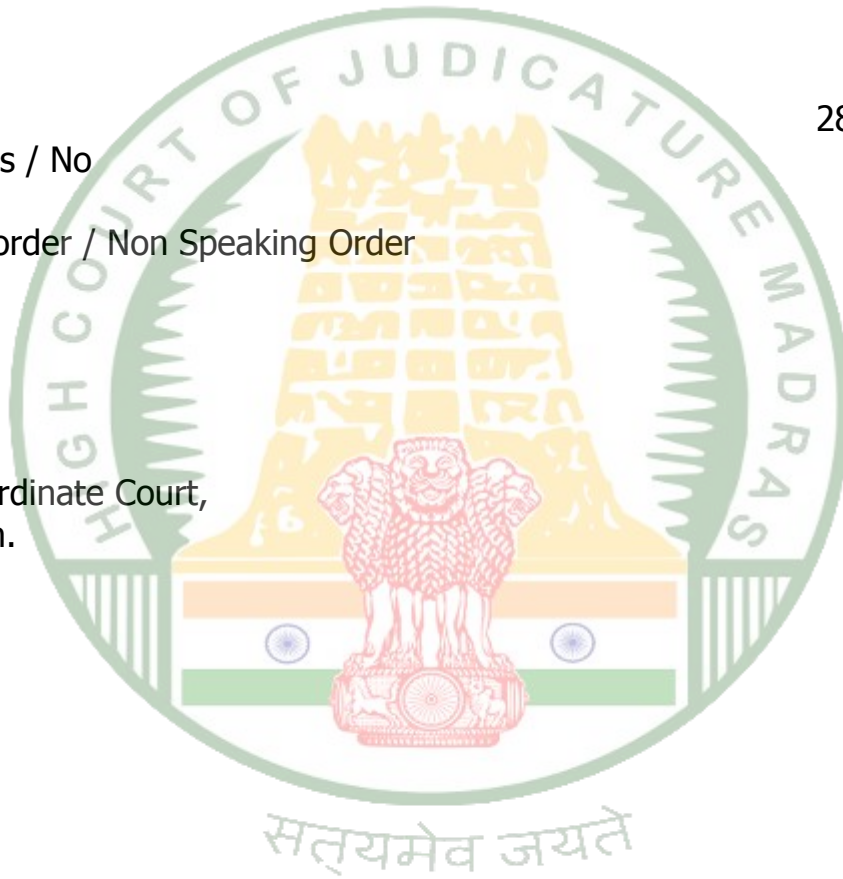
Index : Yes / No

Speaking order / Non Speaking Order

Rj

To

The Subordinate Court,
Tambaram.

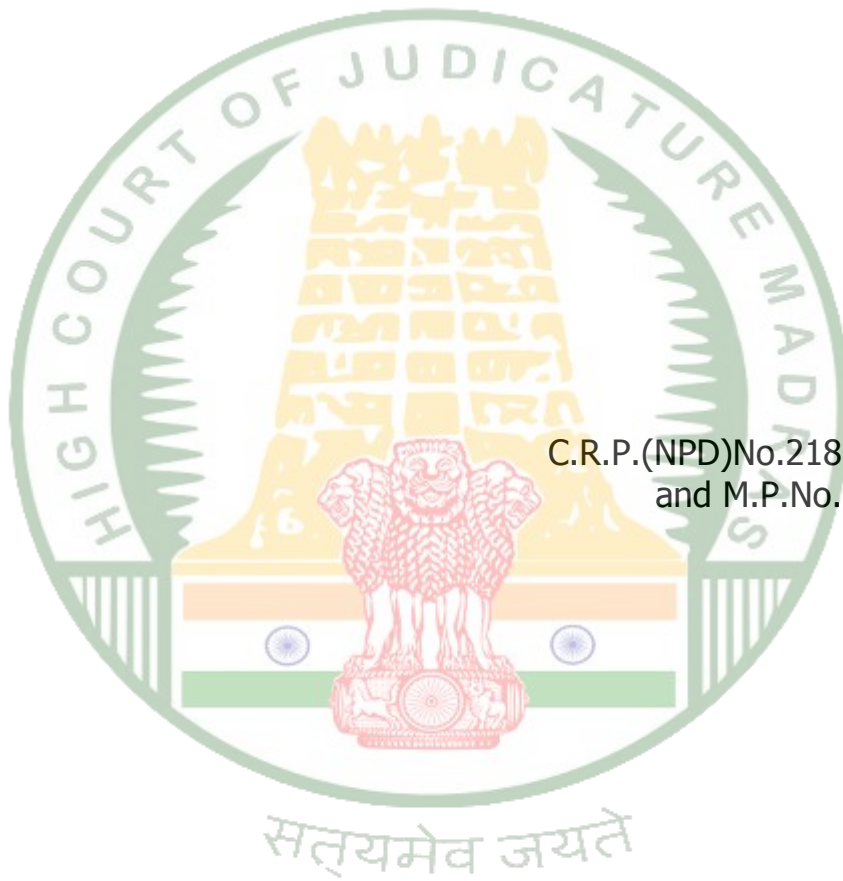


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M.DURAISWAMY, J.

Rj



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and M.P.No.1 of 2014

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