

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **13.02.2019**

CORAM:

THE HONOURABLE Mr.JUSTICE **N.SATHISH KUMAR**

C.R.P.(PD) No.3582 of 2013

Mangalalakshmi

...Petitioner

versus

Santha

...Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India against the docket order dated 18.07.2013 passed in O.S.No.99 of 2010 on the file of District Munsif Court, Ranipet, Vellore District.

For Petitioner : Mr.K.Mohanamurali

For Respondent : No Appearance

सत्यमेव जयते

ORDER

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This Civil Revision Petition has been filed against the order of the trial court dismissing the proof affidavit filed by the sole defendant.

2. The trial Court allowed the application to adduce additional evidence, however, rejected the proof affidavit on the ground that instead of

showing the petitioner's name as Mangalakshmi, her name is typed as

Mahalakshmi in the proof affidavit. As against which, the present Civil Revision Petition is filed.

3. Heard the learned counsel appearing for the revision petitioner. Despite the name was printed none appeared for the respondent.

4. I have perused the entire materials.

5. The trial Court has already recalled DW-1 viz., the revision petitioner and allowed the revision petitioner to adduce the further documentary evidence subject to proof and admissibility. However, when DW-1 filed proof affidavit, the same was rejected on the sole ground that her name has been wrongly shown as Mahalakshmi instead of Mangalakshmi.

6. This Court is of the view that such rejection is not proper for the simple reason that there was no dispute with regard to the identity of DW-1. Merely, spelling mistake should not be the reason to reject the proof affidavit. Particularly, when an application filed to receive the additional documents, which has been already allowed by the trial Court. Admittedly, she has affixed her thumb impression in all the proceedings and there is no dispute with regard to her identity. In that case, the trial Court ought to have received the proof affidavit or atleast returned the proof affidavit to correct the same. It has not been done so. Hence, the order of the trial Court is set

aside and the trial court has to receive the proof affidavit filed by DW-1 and also give an opportunity to DW-1 to set right the error in the affidavit.

7. This Civil Revision Petition is allowed. The trial Court is directed to dispose of the main suit, within a period of three months from the date of receipt of a copy of this order. No costs.

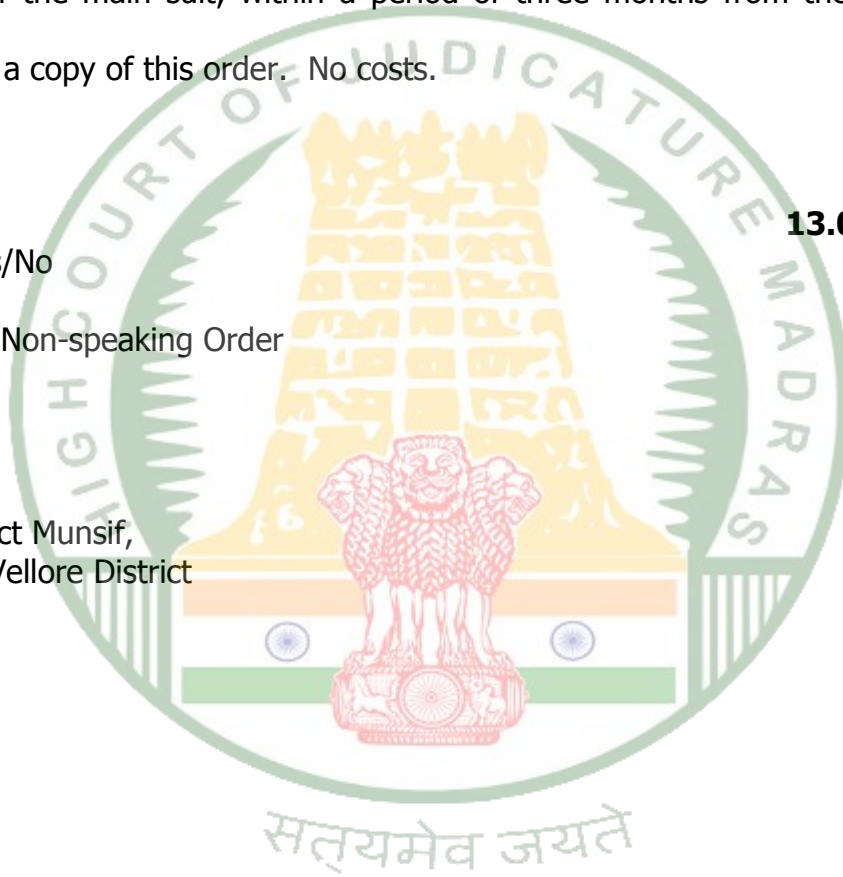
13.02.2019

Index:Yes/No

Speaking/Non-speaking Order

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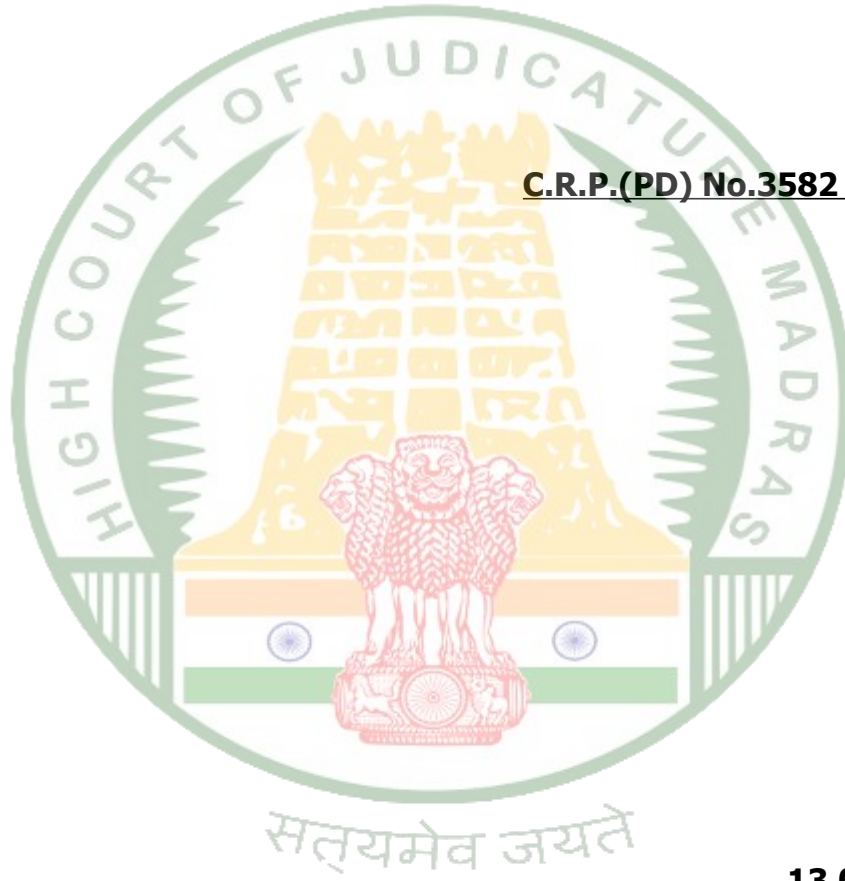
To
The District Munsif,
Ranipet, Vellore District



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N.SATHISH KUMAR, J.

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