

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2019

CORAM :

THE HON'BLE MR. JUSTICE M.DURAI SWAMY

C.R.P.(PD).No.4511 of 2013

M.P.No. 1 of 2013

1. K. Pattammal

2. K. Anandan

... Petitioners

v.

1. J. Raghavendran

2. R. Sireesha

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the petition and docket order dated 06.09.2013 passed in I.A.No.18719 of 2011 in O.S.No.10391 of 2010 on the file of the V Assistant City Civil Judge, Chennai.

For Petitioners : Mr.S. Balaji

For Respondents : Mr. T. Sunderrajan

ORDER

Challenging the fair and final order passed in I.A.No.18719 of 2011 in O.S.No.10391 of 2010 on the file of the V Assistant Judge, City Civil Judge, Chennai, the defendants have filed the above Civil Revision Petition.

2. The respondents-plaintiffs filed the suit in O.S.No.10391 of 2010 for permanent injunction in respect of Survey Nos. 222/1, 222/2, 222/2B, 223, 215/2 Part of Arumbakkam Village, Saidapet Taluk, measuring an extent of 2229 sq.ft.

3. Earlier, the 1st petitioner filed the suit in O.S.No.8989 of 1993 on the file of the II Assistant Judge, City Civil Court, Chennai, as against one Yogalakshmi, for permanent injunction, which was decreed *ex parte* on 01.03.1996. The said suit was filed in respect of Survey No.223 (Part) Arumbakkam Village, measuring an extent of 2 grounds and 12 sq.ft.

4. It is the case of the petitioners that in spite of the decree obtained by the 1st petitioner in respect of Survey No.223 (Part), the respondents have filed the present suit in O.S.No.10391 of 2010 for permanent injunction including the Survey No.223 (Part). Therefore, the petitioners, who are the defendants in the suit, have filed an application under Order VII Rule 11 of Civil Procedure Code to reject the plaint.

5. The Trial Court, after taking into consideration the case of both the parties, dismissed the application. Aggrieved over the same, the defendants have filed the above Civil Revision Petition.

6. Mr.S. Balaji, learned counsel appearing for the petitioners submitted that the petitioners-defendants are not claiming any right or title in respect of Survey Nos. 222/1, 222/2, 222/2B and 215/2 Part of Arumbakkam Village. Further, the learned counsel submitted that the petitioners are the absolute owners of the Survey No.223 alone.

7. Mr.T.Sunderrajan, learned counsel appearing for the respondents-plaintiffs also submitted that the respondents are not claiming any right or title in respect of Survey No.223 and that they are

the absolute owners of Survey Nos. 222/1, 222/2, 222/2B and 215/2 Part of Arumbakkam Village, Saidapet Taluk.

8. The submission made by the learned counsel on either side is recorded.

9. Therefore, I make it clear that the respondents-plaintiffs are claiming right only in respect of Survey Nos. 222/1, 222/2, 222/2B and 215/2 Part of Arumbakkam Village, Saidapet Taluk and not in respect of Survey No.223. Similarly, the petitioners-defendants are also claiming right only in respect of Survey No.223 and not in other Survey Numbers, viz., S.Nos. 222/1, 222/2, 222/2B and 215/2 Part of Arumbakkam Village, Saidapet Taluk. Mr.T.Sunderrajan, learned counsel appearing for the respondents-plaintiffs submitted that the respondents would file appropriate application to amend the Schedule of property by deleting Survey No.223, for which, the learned counsel appearing for the petitioners-defendants has no objection. In the event of any confusion in the demarcation of the respective lands, the parties are at liberty to file

appropriate application either before the concerned authorities or before

the Trial Court to measure and demarcate their respective lands.

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

20.11.2019

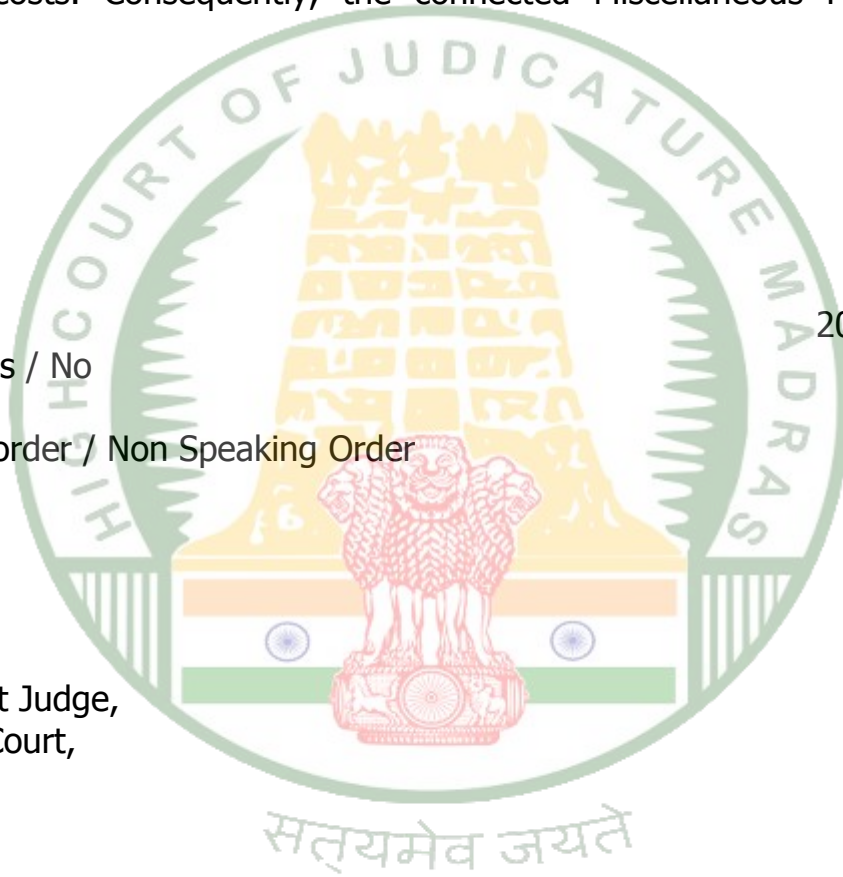
Index : Yes / No

Speaking order / Non Speaking Order

Rj

To

V Assistant Judge,
City Civil Court,
Chennai.

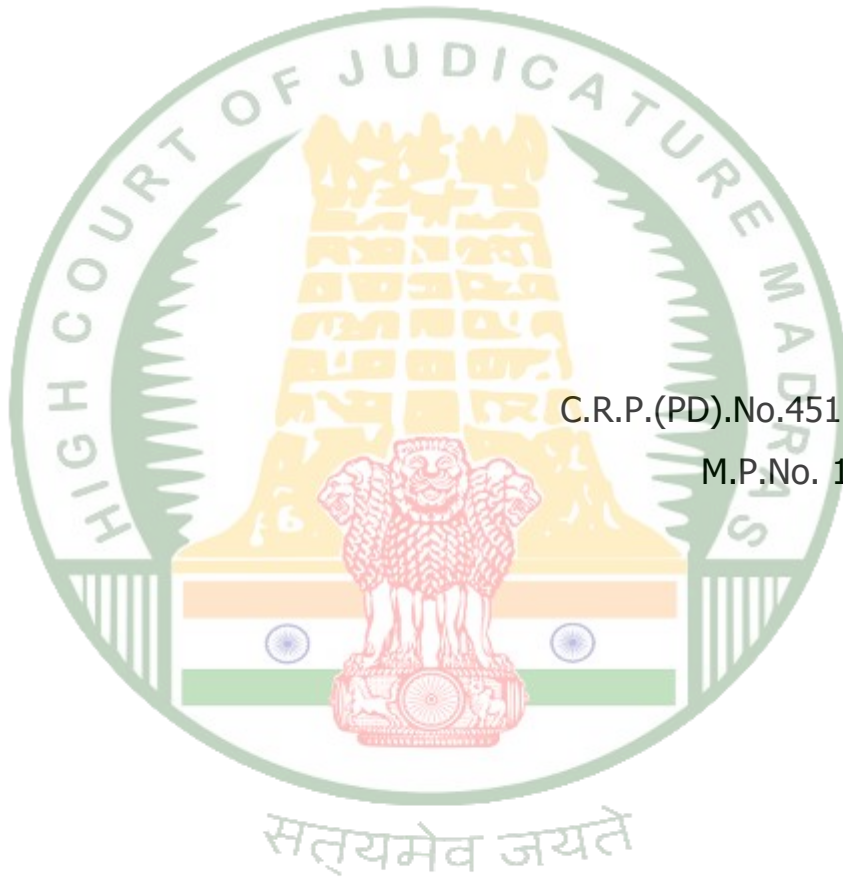


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M.DURAI SWAMY, J.

Rj



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