

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.08.2019

C O R A M

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.R.P.(PD)Nos.2678 & 2665 of 2019

and

CMP.Nos.17645 & 17586 of 2019

M.Jayaraman ... Petitioner in CRP(PD).No.2678/2019

M.Saravanan ... Petitioner in CRP(PD).No.2665/2019

Vs.

Bala ... Respondents in both the petitions

Common Prayer: Civil Revision Petition filed under Article 227 of Constitution of India against the fair and decretal order dated 30.01.2019 passed in CMA.Nos.3 & 8 of 2017 on the file of the Subordinate Judge, Thiruvarur, thereby reversing the fair and decretal orders dated 16.02.2017 made in I.A.Nos.599 & 566 of 2015 in O.S.Nos.118 & 111 of 2015 on the file of the District Munsif, Thiruvarur.

For Petitioner
In both the petitions : Mr.T.Srinivasaraghavan

For Respondent
In both the petitions : Mr.C.Sathish

COMMON ORDER

The petitioners are the plaintiffs before the trial Court. They filed a suits for permanent injunction restraining the defendant/respondent from interfering with the peaceful possession. The trial Court granted interim injunction, considering that there exists a *prima facie* case as also balance of convenience is in favour of the petitioners. The respondent has filed an appeal and the Lower Appellate Court allowed the appeal and dismissed the injunction granted by the trial Court, on the ground that injunction was granted on the basis of unregistered documents.

2. The learned counsel for the petitioners would contend that these unregistered documents were relied for collateral purposes and the series of receipts issued by the temple, which is the ultimate owner of the petitioners, establish petitioner's possession and cultivation of the suit land.

3. On instructions, Mr.C.Sathish, learned counsel for the respondent would submit that the averments made by the petitioners in the plaint that the lease deed was executed by the petitioners/plaintiffs are not admitted and the tenancy till date is in favour of his father and therefore, the Lower Appellate Court is right in dismissing the injunction granted by the trial Court.

4. I have considered the submissions. Whether the documents can be relied on for granting the main relief and whether it can be filed for collateral purpose for establishing possession, can be decided during the disposal of the suits. As of today, the admitted position is that the petitioners are in possession of the property and that he is cultivating the land. In such circumstances, there is a *prima facie* case and the balance of convenience is in favour of the petitioners.

5. The admitted position of law is that an unregistered document can be relied only for collateral purpose for establishing possession. Therefore, considering the hardship caused to the petitioners by not permitting him to harvest the crop, this Court, is inclined to revive the interim injunction granted by the trial Court in I.A.Nos.599 & 566 of 2015 in O.S.Nos.118 & 111 of 2015 on the file of District Munsif, Thiruvarur, dated 16.02.2017 in the above suits. Accordingly, the same will come into force.

6. These Civil Revision Petitions are ordered accordingly. The learned counsel for the respondent would vehemently contend that by getting an interim injunction from the trial Court, the petitioners are enjoying the property without any authority for the past four years. Therefore, they seek a direction for early disposal.

7. Considering the facts and circumstances, a direction is given to the trial Court to dispose of the suits in O.S.Nos.118 & 111 of 2015 on the file of the District Munsif, Thiruvarur, within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

16.08.2019

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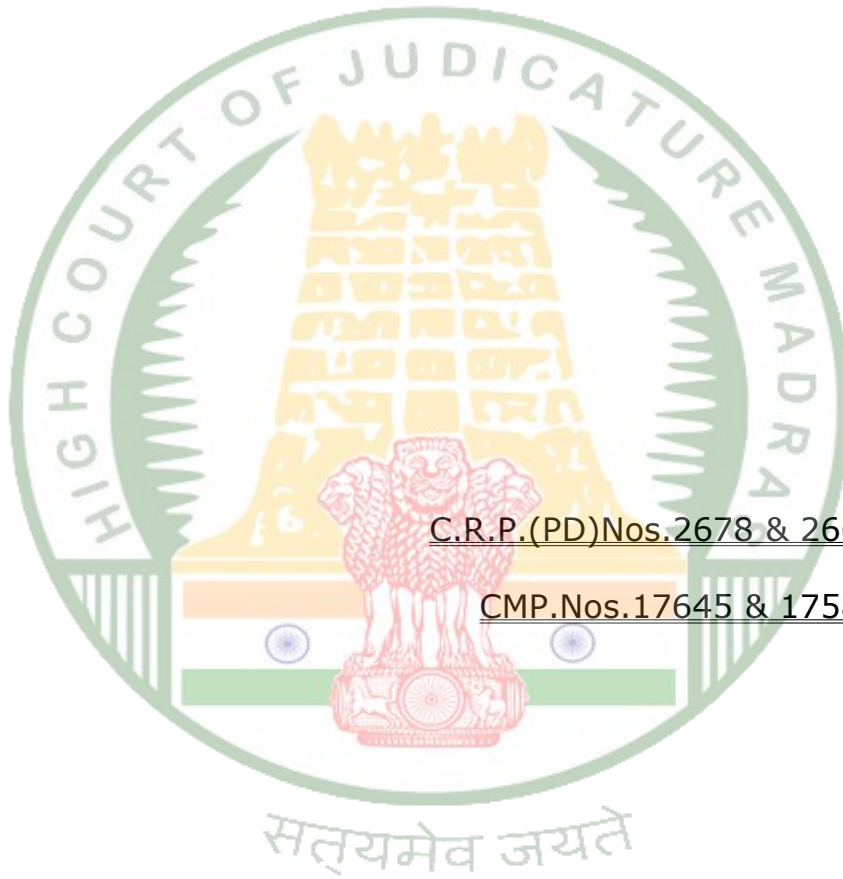
Index:Yes/No
Internet:Yes/No
Speaking Order/Non Speaking Order

To

- 1.The Judge,
District Munsif,
Thiruvarur.
2. The Subordinate Judge,
Thiruvarur.

M. GOVINDARAJ, J.

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