

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2019

C O R A M

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.R.P.No.2070 of 2019
and C.M.P.No.13359 of 2019

Velmurugan

... Petitioner

Vs.

Divisional Manager,
Indian Oil Corporation,
Sasthri Road, Thillai Nagar,
Trichy - 620 017.

... Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the judgment and decree dated 15.03.2019 in CMA.No.2/2018 on the file of Sub-Judge, Jeyamkondam in confirming the fair order and decretal order dated 07.11.2017 in I.A.No.402/2017 in O.S.No.82/2017 on the file of District Munsif Court, Jeyamkondam.

For Petitioner : Mr.G.V.Sridharan

For Respondent : No Appearance

ORDER

The Revision Petitioner is the Plaintiff in O.S.No.82 of 2017. The suit is for permanent injunction and the Revision Petitioner/Plaintiff filed an Interlocutory Application in I.A.No.402 of 2017 in O.S.No.82 of 2017 seeking interim injunction against the 3rd defendant.

2. The 3rd defendant is licensed the 2nd defendant to run a petrol

bunk in the suit schedule property. Since 3rd defendant attempted to

encroach upon his property, he filed the application for injunction. The trial Court initially granted interim injunction, however, for non-joinder and mis-joinder of necessary parties dismissed the petition. Against which, the petitioner filed an appeal in C.M.A.No.2 of 2018, which was also dismissed for non-joinder of necessary parties. Aggrieved over the same, the Petitioner is before this court.

3. Admitted facts are that the first defendant is the owner of the land and the petitioner has a dispute over boundaries before the Revenue Authorities. The second defendant is the lessee under the first defendant, who licensed to run a petrol bunk. For that purpose she is putting up construction and fencing. If the petitioner has any grievance he should file a petition for injunction against the first defendant who is stated to be the owner of the land and the lessee who is putting up construction and not against licensor. Hence the Lower Appellate Court has rightly found that it is bad for non-joinder of necessary parties. This Court does not find any infirmity in the order passed by the trial Court, in C.M.A.No.2 of 2018. Accordingly, the Civil Revision Petition has no merits for consideration and hence, stands dismissed.

4. However, the learned counsel for the petitioner would submit that his property is at peril and if construction is made, he will be put to irreparable hardship and he will lose his valuable right over his property.

5. Considering the above said submission, a direction is given to the District Munsif Court, Jayakondam, to dispose of the suit in O.S.No.82 of 2017 pending on its file as expeditiously as possible. No costs. Consequently, connected miscellaneous petition is closed.

28.06.2019

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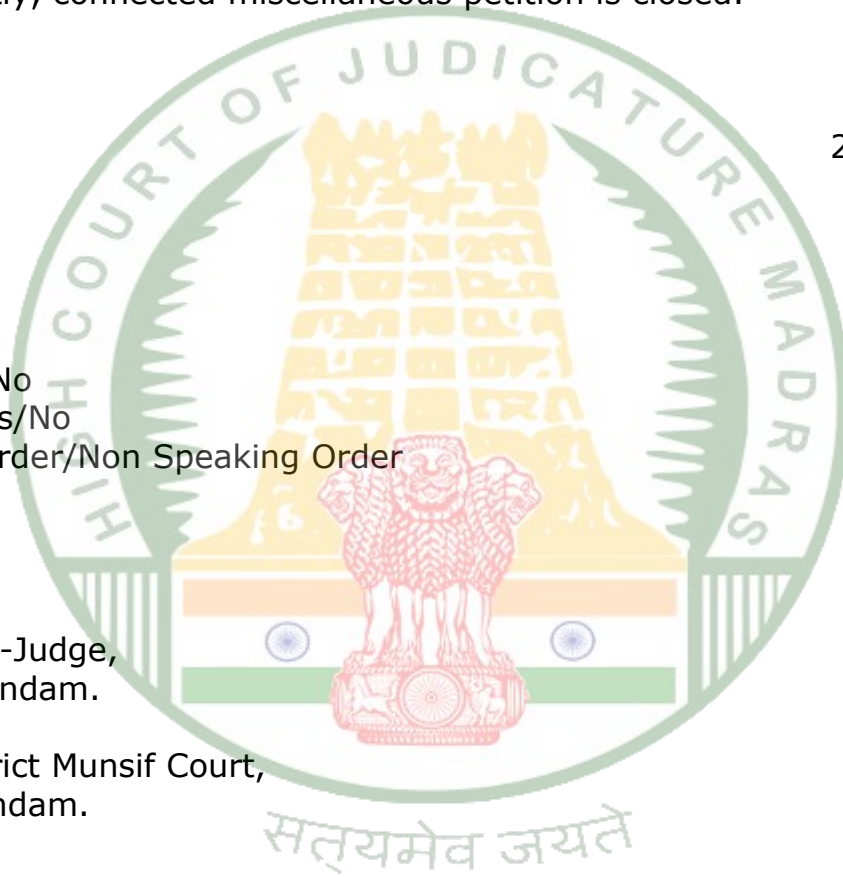
Index:Yes/No

Internet:Yes/No

Speaking Order/Non Speaking Order

To

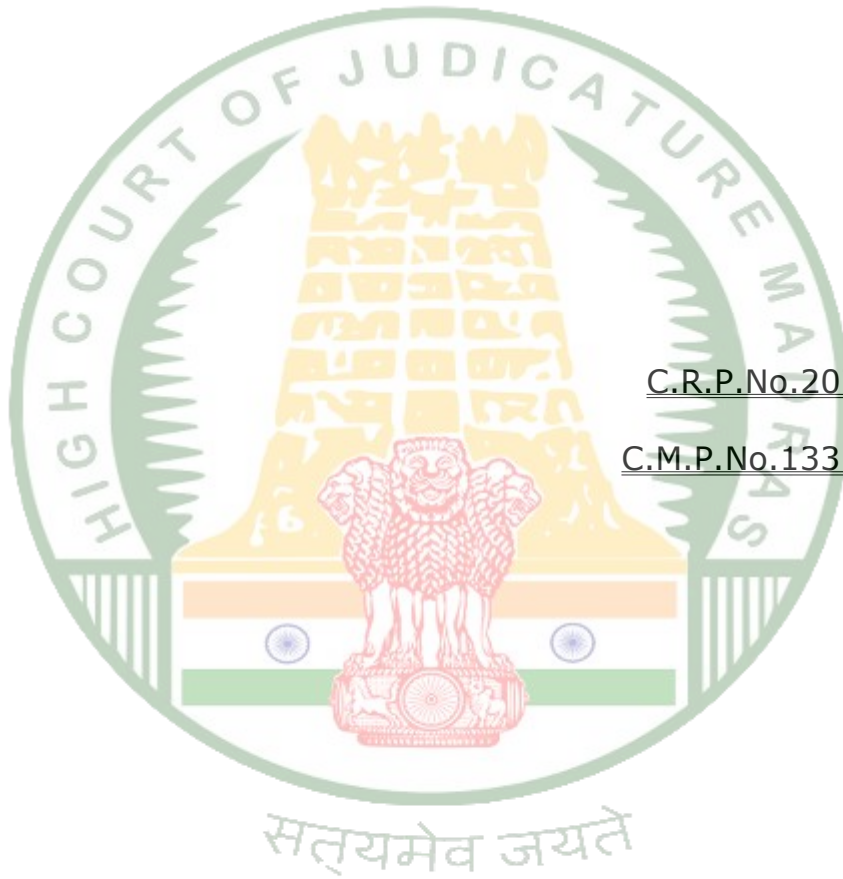
1. The Sub-Judge,
Jeyamkondam.
2. The District Munsif Court,
Jeyankondam.



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M. GOVINDARAJ, J.

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