

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:12.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.R.P.(PD) No.2091 OF 2019
and
C.M.P.No.13542 OF 2019

S.R.Subhiramanian

... Petitioner

Vs.

1. Valliammal

2. Palaniammal

3. Vishalakshi

4. Ramasamy

5. R.S.Venkatesan

... Respondents

सत्यमेव जयते

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India praying to set aside the order and decretal order dated 12.03.2019 passed in I.A.No.93 of 2019 in O.S.No.43 of 2018 on the file of Subordinate Judge, Palladam.

For petitioner

: Mr.K.Myilsamy

ORDER

Aggrieved over the order of rejecting the Interlocutory application for appointment of Advocate Commissioner, the petitioner is before this Court. The third defendant filed the above revision petition. The suit in O.S.No.43 of 2018 for partition is between brother / first defendant and sisters / plaintiffs. The third defendant filed an application in I.A.No.93 of 2019 for appointment of Advocate Commissioner to note down the physical features of the schedule mentioned property.

2. Materials produced before this Court reveal that the intention of the petitioner to appoint an advocate commissioner to show that the sisters are not in joint possession of the properties and that they were ousted from possession. Further by virtue of partition deed dated 08.08.2008, the petitioner was allotted with the properties, which are in his exclusive possession and that he has improved it leaps and bounds. The trial Court, after considering all the averments has held that in a suit for partition the rights shall be determined based on the oral and documentary evidence. It is not necessary to prove possession through an advocate commissioner, which is not a deciding factor.

3. I do not find any infirmity in the order passed by the Trial Court. The Civil Revision Petition merits no consideration and accordingly, dismissed. No costs. Consequently, connected civil miscellaneous petition is closed.

12.07.2019

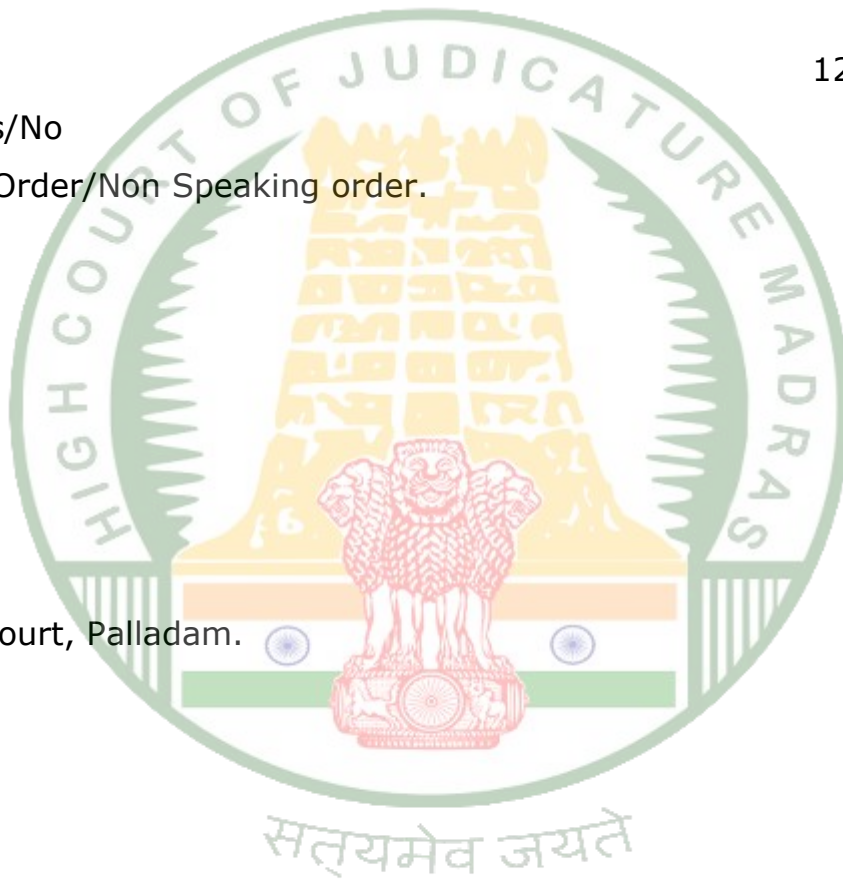
Index: Yes/No

Speaking Order/Non Speaking order.

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To

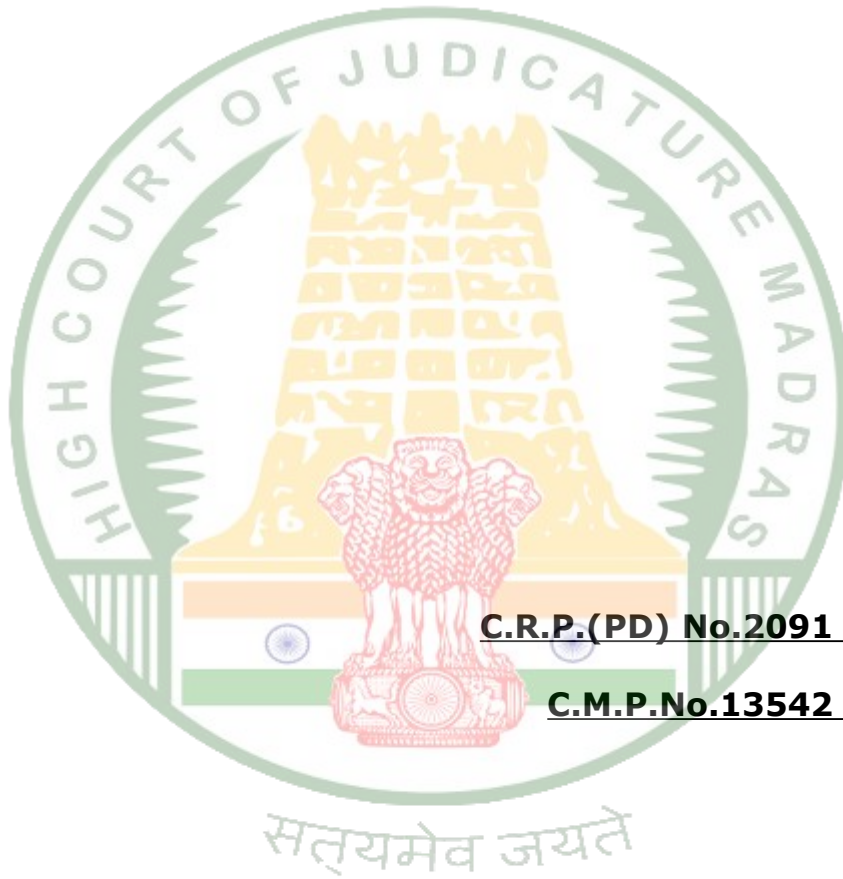
The Sub Court, Palladam.



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M.GOVINDARAJ, J.

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