

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.08.2019

C O R A M

THE HON'BLE Mr.JUSTICE ABDUL QUDDHOSE

C.R.P.(PD) No.3097 of 2014 &
M.P.No.1 of 2014

R.Muthukumarasamy

... Petitioner

Vs.

1.R.Deivegam
2.The Special Officer,
Sri Ambiga Sugars,
Erayur, Pennadam,
Tittagudi Taluk.

3.Ramadoss
(Respondents 2 & 3 are
given up as they remained
exparte)

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal orders dated 09.12.2013 in Tr.O.P.No.173 of 2012 on the file of the Principal District Court, Cuddalore.

For Petitioner ... Mr.T.Sezhian

For Respondent 1 ... Ms.V.Suguna

ORDER

The instant civil revision petition has been filed challenging the order dated 09.12.2013 passed by the learned Principal District Court, Cuddalore in Tr.O.P.No.173 of 2012.

Brief facts leading to the filing of the instant revision under Article 227 of the Constitution of India:

2. The petitioner and the first respondent are brothers and the third respondent is their father. The petitioner filed two suits namely O.S.No.195 of 2010 before the Additional District Judge, Virudhachalam for recovery of money against the first respondent and O.S.No.44 of 2011 before the First Additional District Munsif, Virudhachalam for declaration and injunction in respect of the suit schedule property against the first and third respondents. For the same property, the first respondent filed a suit O.S.No.333 of 2010 before the learned District Munsif, Virudhachalam against the petitioner and the second respondent. The suit filed by the first respondent in O.S.No.333 of 2010 was prior to the

filing of the suit O.S.No.44 of 2011 by the petitioner. Transfer O.P.No.87 of 2011 was filed by the first respondent to transfer the suit O.S.No.44 of 2011 from the file of First Additional District Munsif, Virudhachalam to the file of Second Additional District Munsif, Virudhachalam where the suit O.S.No.333 of 2010 was pending. The said Transfer O.P.no.87 of 2011 was allowed and O.S.No.44 of 2011 was transferred from the file of First Additional District Munsif, Virudhachalam to the file of Second Additional District Munsif, Virudhachalam. Thereafter, Transfer O.P.No.173 of 2012 was filed by the first respondent to transfer the suit O.S.No.333 of 2010 and O.S.No.44 of 2011 from the file of Second Additional District Munsif, Virudhachalam to the file of Third Additional District Judge, Virudhachalam.

3. By order dated 09.12.2013, in transfer O.P.No.173 of 2012, the Principal District Judge, Cuddalore allowed the Transfer petition and transferred O.S.No.333 of 2010 and O.S.No.44 of 2011 from the file of Second Additional District Munsif, Virudhachalam to the file of Third Additional District Munsif Judge, Virudhachalam. Aggrieved by the order

dated 09.12.2013 passed in Transfer O.P.No.173 of 2012, the instant civil revision petition has been filed under Article 227 of the Constitution of India.

4. Heard Mr.T.Sezhian, learned counsel for the petitioner and Ms.V.Suguna, learned counsel for the first respondent.

5. Today, it is brought to the notice of this Court by both the learned counsels that one of the suits namely O.S.No.195 of 2010 filed by the petitioner for recovery of money against the first respondent has already been decreed in favour of the petitioner. The money suit O.S.No.195 of 2010 and the other two suits O.S.No.333 of 2010 and O.S.No.44 of 2011 have no common cause. The court below also failed to take note of the fact that the parties will lose a right of appeal, since the suits are transferred from the Munsif Court to the District Court and hence, this Court is of the considered view that the court below has exceeded its jurisdiction.

6. For the foregoing reasons, the impugned order dated 09.12.2013 in Tr.O.P.No.173 of 2012 on the file of the Principal District Court, Cuddalore is hereby set aside and the civil revision petition is

allowed and the suits O.S.No.333 of 2010 and O.S.No.44 of 2011 are re-transferred from the file of Third Additional District Judge, Virudhachalam to the file of Additional District Munsif Court, Virudhachalam. The office of the Additional District Judge, Virudhachalam is directed to send the entire papers pertaining to the suits O.S.No.333 of 2010 and O.S.No.44 of 2011 to the Additional District Munsif Court, Virudhachalam within a period of two weeks from the date of receipt of a copy of this Order and the Additional District Munsif Court, Virudhachalam on receipt of the papers from the Third Additional District Judge, Virudhachalam shall dispose of both the suits O.S.No.333 of 2010 and O.S.No.44 of 2011 in accordance with law within a period of six months from the date of receipt of the suit papers from the Third Additional District Court, Virudhachalam. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No

Internet: Yes/No

Speaking/Non-Speaking orders

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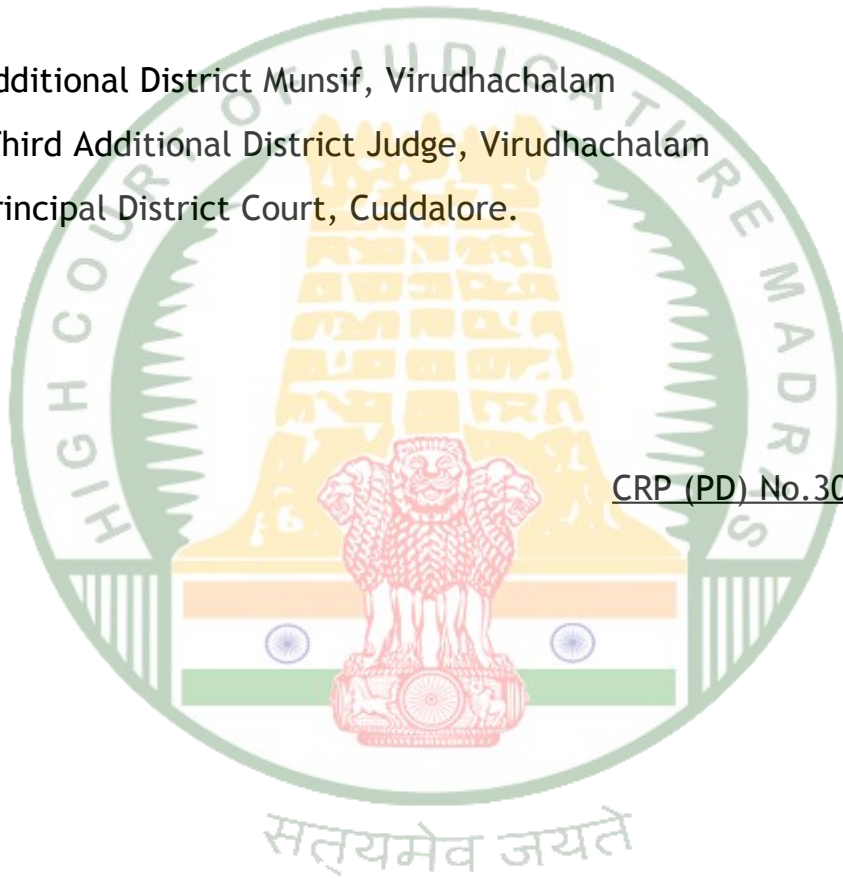
09.08.2019

ABDUL QUDDHOSE. J.,

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To

1. The Additional District Munsif, Virudhachalam
2. The Third Additional District Judge, Virudhachalam
3. The Principal District Court, Cuddalore.



CRP (PD) No.3097 of 2014

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