

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.03.2019

CORAM :

THE HON'BLE MR. JUSTICE N. SATHISH KUMAR

C.R.P. (PD) No.4812 of 2017

and

C.M.P.No.22755 of 2017

1.P.Ayyammal
2.P.Bharathi
3.P.Suseela
4.P.Vijaya

... Revision Petitioners

Vs.

1.Nishana Banu
2.Mohammed Shaffi
3.Abudhaheer
4.Guna @ Gunaseelan

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decretal order dated 06.09.2017 in I.A.No.146 of 2017 in C.M.A.No.23 of 2017 on the file of the Subordinate Judge's Court, Coimbatore and allow the above Civil Revision Petition.

For Petitioners : Mr.C.R.Prasanan

For Respondents : Mr.S.Mukunth
for M/s.Sarvabhauman Associates

ORDER

This Civil Revision Petition has been filed against the order of the First Appellate Court made in I.A.No.146 of 2017 in C.M.A.No.23 of 2017, allowing

the application filed by the respondents to suspend the interim injunction granted by the trial Court in favour of the revision petitioners.

2.The main grievance of the revision petitioners is that, they have filed caveat before the First Appellate Court and despite caveat pending, the First Appellate Court has allowed the application filed by the respondents and has suspended the interim injunction, granted by the trial Court.

3.It is also brought to the notice of this Court by the learned counsel appearing for the revision petitioners that, the Civil Miscellaneous Appeal in C.M.A.No.23 of 2017 has now been transferred from the file of the II Additional Subordinate Court, Coimbatore, to the file of III Additional Subordinate Court, Coimbatore. The order of the District Judge, transferring the appeal, is placed before this Court, today.

4.Since, the revision is directed against the order of the First Appellate Court, granting interim order despite pending of the caveat, I am of the view that such order is to be vacated. Since, no notice has been served on the caveator, the order suspending the interim injunction granted by the trial Court is liable to be set aside.

5. In fine, this Civil Revision Petition is allowed and the order of the First Appellate Court, made in I.A.No.146 of 2017 in C.M.A.No.23 of 2017, is set aside. No costs. Consequently, connected Miscellaneous Petition is closed.

6. The III Additional Subordinate Judge, Coimbatore, to whose file the Civil Miscellaneous Appeal in C.M.A.No.23 of 2017 has now been transferred, is directed to dispose of the Civil Miscellaneous Appeal within a period of two months, on merits, from the date of receipt of a copy of this order. After such disposal, the trial Court shall dispose of the suit within a period of four months from the date of receipt of a copy of the order, to be passed in the Civil Miscellaneous Appeal.

26.03.2019

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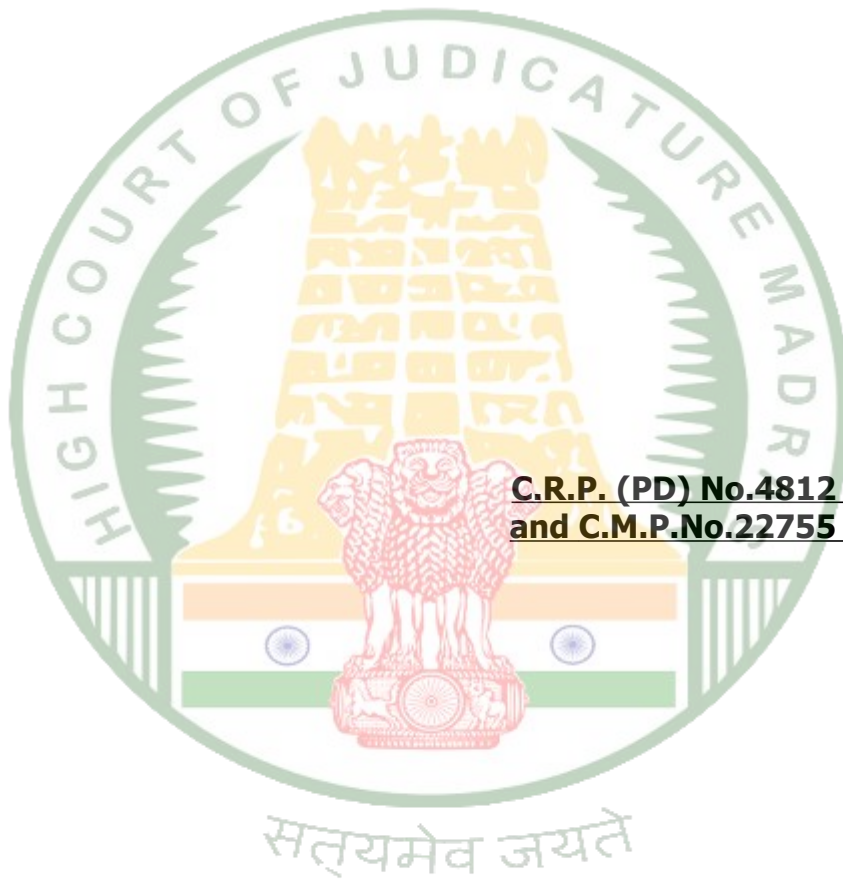
Index : Yes / No
Internet : Yes / No
Speaking order / Nonspeaking order

To

1. The II Additional Subordinate Judge,
Coimbatore.
2. The III Additional Subordinate Judge,
Coimbatore.

N. SATHISH KUMAR, J.

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