

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :05.10.2020

CORAM

THE HONOURABLE MR. JUSTICE P.RAJAMANICKAM

CRP (PD)No.2015 of 2015

**and
CMP.No.141 of 2015
and
CMP.Nos.1 and 2 of 2015**

A.Unchiyammal .. Petitioner / Plaintiff
Vs.

1. The District Collector,
Office of the Collectrate,
Kanchipuram.

2.The District Revenue Officer,
Kancheepuram,
Kancheepuram District.

3. The Revenue Divisional Officer,
Kancheepuram,
Kancheepuram District.

4.The Tahsildhar,
Uthiramerur Taluk,
Kancheepuram District.

5.The Zonal Deputy Tahsildhar,
Uthiramerur Taluk,
Kancheepuram District.

6.K. Gopinath
7.Hariharan
8.Parameshwari
9.Bhuvaneshwari

10. Parimala
11. S.Bhavani
12. R. Usha

.. Respondents/Defendants

PRAYER: The Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order dated 29.04.2015 made in I.A.No.205 of 2015 in O.S.No.210 of 2014 on the file of the Subordinate Court, Kancheepuram.

For Petitioner ... Mr.V.Manohar

For Respondents ... Mr.Dev Narendran (for R1 to R5)
Government Advocate (Civil Side)
Mr.L.Prabakar (for R6 & R8 to R12)

ORDER

This Civil Revision Petition has been filed by the petitioner/plaintiff against the order passed by the Sub-Judge, Kancheepuram, in I.A.No.205 of 2015 in O.S.No.210 of 2014 dated 29.04.2015 .

2. The petitioner herein has filed a suit in O.S.No.210 of 2014 on the file of the Sub-Judge, Kancheepuram, to declare that she is the absolute owner of the suit property and also for permanent injunction to restrain the defendants therein from interfering with her peaceful

possession and enjoyment of the suit property. During pendency of the said suit, she has filed an application in I.A.No.205 of 2015 under Order 39 Rules 1 & 2 of CPC to restrain the second respondent/second defendant from conducting an enquiry based on the report of the third respondent/third defendant in his proceedings in Na.Ka.No.164/2012/A2 dated 10.09.2012 in respect of the patta No.13 pertaining to the land measuring 2 Acres 48 cents in S.No.2/1, Adavapakkam Village, Uthiramerur Taluk, Kancheepuram District, till the disposal of the aforesaid suit.

3. The learned Sub-Judge by the order dated 29.04.2015 has dismissed the said petition without costs. Feeling aggrieved, the petitioner/plaintiff has filed the present Civil Revision Petition.

4. Heard Mr.V.Manohar, learned counsel for the petitioner and Mr.Dev Narendran, learned Government Advocate, (Civil Side) appearing for the respondents 1 to 5 and Mr.L.Prabakar, learned counsel appearing for the respondents 6 & 8 to R12.

5. As per Order 43 Rule 1 (r) of CPC an order passed under Order 39 Rules 1 and 2 of CPC is an appealable order. Hence, this

court has raised a query as to how the Civil Revision Petition is maintainable. For that, the learned counsel for the petitioner has submitted that the learned Sub-Judge has rejected the petitioner's injunction petition as not maintainable and hence, this Civil Revision Petition is maintainable.

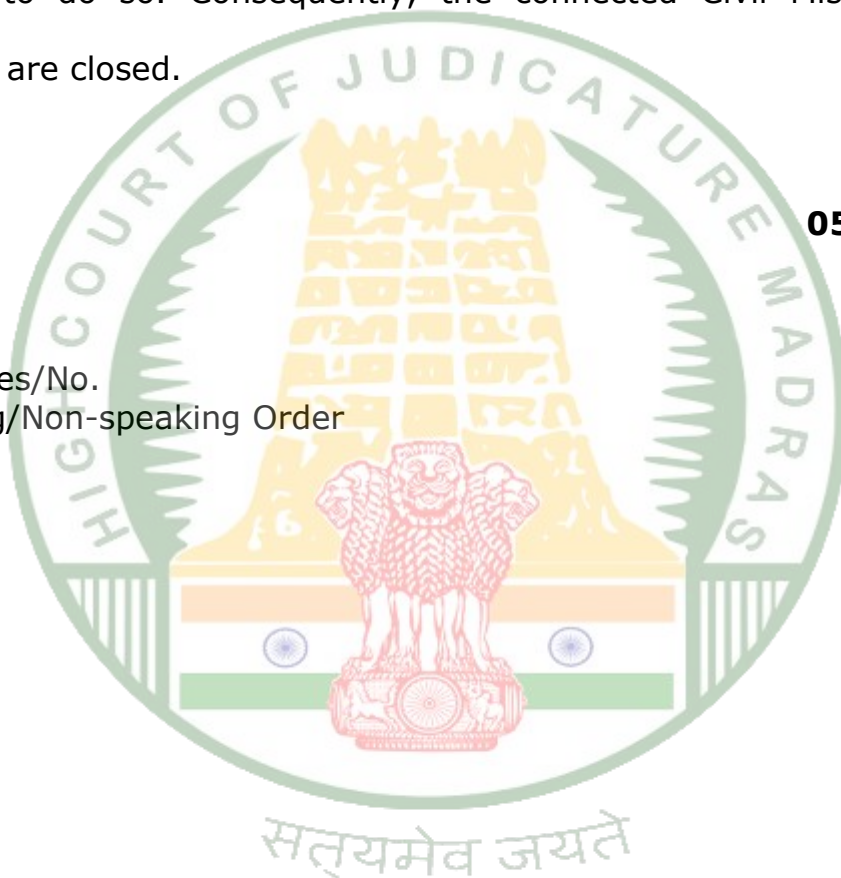
6. A perusal of the order passed by the learned Sub-Judge in I.A.No.205 of 2015 in O.S.No.210 of 2014 shows that the said petition was not rejected as not maintainable before the said petition was numbering. On the contrary, the learned Sub-Judge has taken the said petition on file in I.A.No.205 of 2015 and after giving an opportunity to both parties for adducing oral and documentary evidence, he has finally dismissed the petition. Therefore, it cannot be said that the learned Sub-Judge has rejected the said petition, without entertaining the same.

7. As already pointed out that the I.A.No.205 of 2015 has been filed under Order 39 Rules 1 & 2 of CPC. If any order is passed in the said petition, as per Order 43 Rule 1 (r) of CPC, the said order is an appealable order and as such, the Civil Revision Petition is not maintainable.

8. In the result, the Civil Revision Petition is dismissed as not maintainable. No costs. It is open to the petitioner to file Civil Miscellaneous Appeal before the concerned District Court, if he is advised to do so. Consequently, the connected Civil Miscellaneous Petitions are closed.

05.10.2020

Index: Yes/No.
Speaking/Non-speaking Order
gv



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P.RAJAMANICKAM.,J.
gv

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