

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.01.2020

CORAM:

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

**C.R.P(PD).No.4072 of 2015
and
M.P.No.1 of 2015**

B. Rucki

... Petitioner

Vs.

1. Sundaram

2. Kavitha

3. Kaveri

... Respondents

PRAYER : Civil Revision Petition filed under article 227 of the Constitution of India to set-aside the fair and decreetal orders dated 15.06.2015 passed in I.A.No.50 of 2014 in O.S.No.48 of 2010 on the file of the District Munsif's Court, Kotagiri.

For Petitioner : Mrs. R. Meenal

For respondents : Mr. L. Mouli

ORDER

This Civil Revision Petition has been filed against the order dismissing the petitioner's application filed under Order VI Rule 17 CPC to amend the plaint.

2. The petitioner herein filed a suit in O.S.No.48 of 2010 on the file of the District Munsif Court, Kotagiri for specific performance based on a Sale Agreement, said to have been executed by the respondents/defendants in respect of Survey NO.1714 of Kotagiri Village and Taluk. In the above suit, the respondents/defendants filed a written statement denying the execution of the sale agreement and also stated that the defendants are not the owners of the property in respect of survey No.1714. Thereafter, the petitioner filed an application in I.A.No.50 of 2014 to amend the survey number in the suit schedule property as Survey No.2039/42 instead of Survey No.1714 and the trial Court by an order dated 15.06.2015 dismissed the application. Now, challenging the same, the present revision has been filed.

3. Heard both sides and perused the materials available on records carefully.

4. The suit has been filed for specific performance based on a sale agreement said to have executed by the respondents/defendants in respect of Survey No.1714. When a suit has been filed seeking the relief of specific performance based on a sale agreement in respect of above survey number, merely because the defendants deny the ownership of that survey number, the petitioner/plaintiff cannot amend the schedule of the property including new survey number, which is not subject matter of the sale agreement, this Court has to go by the survey number found in the sale agreement. Considering the above said facts, the trial Court rightly dismissed the application. I find no illegality or irregularity in the order passed by the trial Court and I find no merit in the revision.

5. Accordingly, this Civil Revision Petition is dismissed.

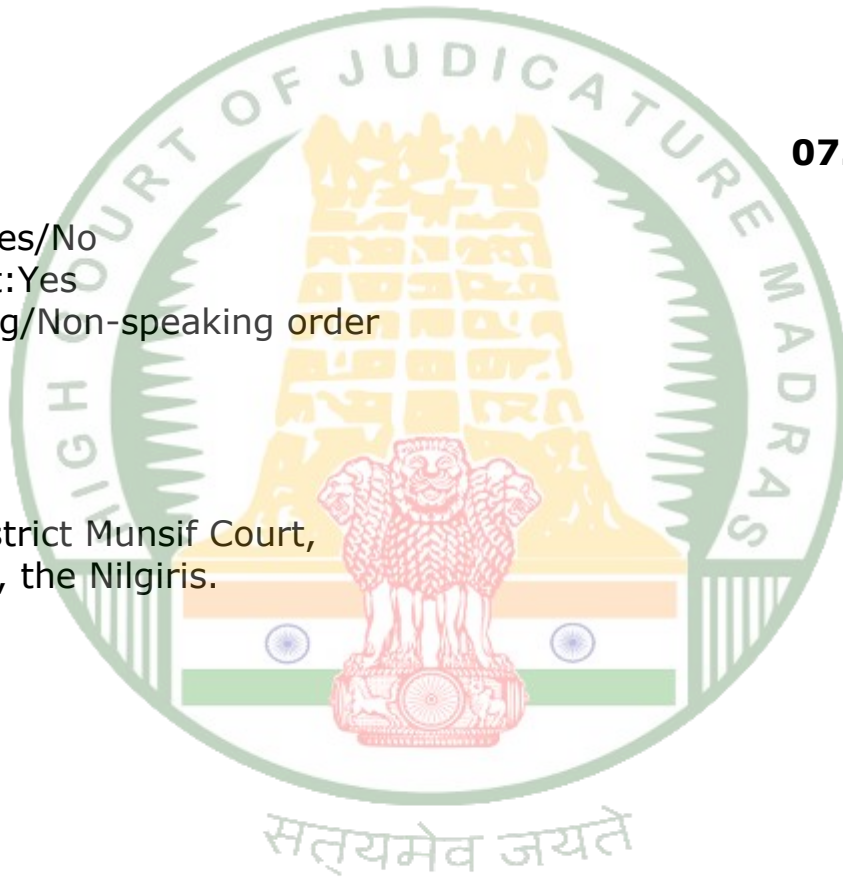
No costs. Consequently, connected miscellaneous petition is closed.

07.01.2020

Index:Yes/No
Internet:Yes
Speaking/Non-speaking order
mrp

To

The District Munsif Court,
Kotagiri, the Nilgiris.

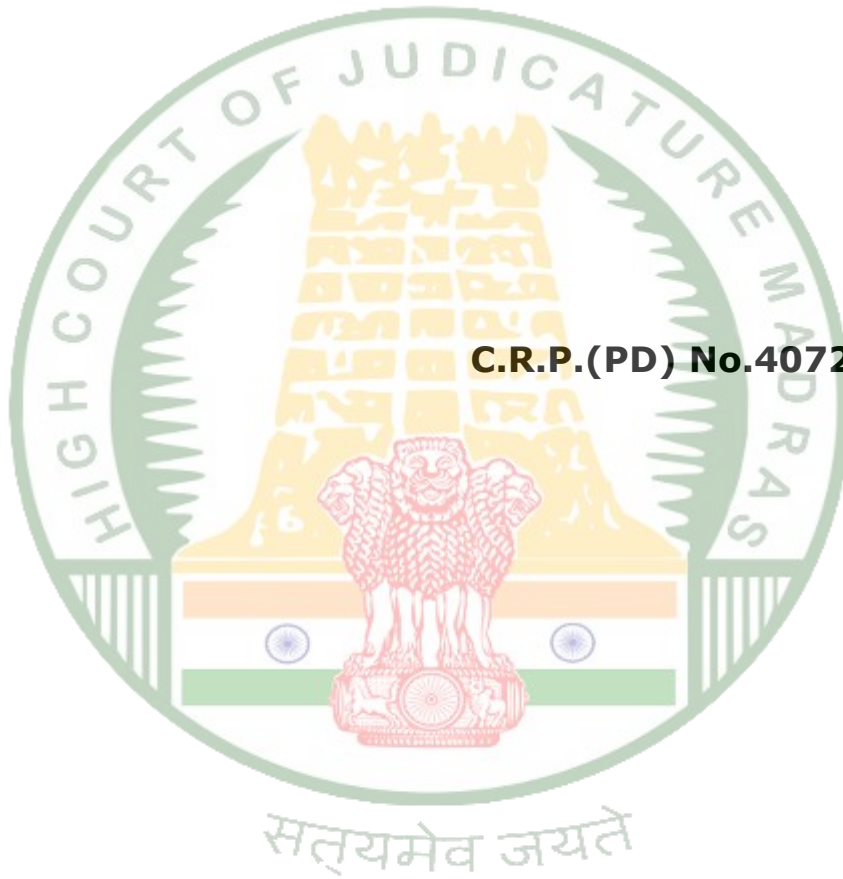


WEB COPY

C.R.P.(PD) No.4072 of 2015

V.BHARATHIDASAN, J

mrp



C.R.P.(PD) No.4072 of 2015

07.01.2020

WEB COPY

5/5