

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2020

CORAM:

THE HON'BLE MR.JUSTICE R.SUBRAMANIAN

CRP (PD) No.194 of 2018 and
CMP No.1088 of 2018

R.Sivaguru

... Petitioner

Vs

Thiru Kumaran alias Kumar

... Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 09.01.2018 in I.A.No.553 of 2017 in O.S. No.197 of 2016 on the file of the learned Subordinate Judge, Poonamallee.

For Petitioner : Mr.R.Rajarajan

For Respondent : Mr.C.B.Muralikrishnan

ORDER

This revision is against an order dismissing an application for examination of the Thasildar as a witness in the suit in O.S.No.142 of 2013.

2. The suit is laid for permanent injunction restraining the defendant from interfering with the plaintiff's peaceful possession and to declare the ownership of the plaintiff.

3. During the pendency of the suit, it appears that, the Thasildar effected mutation of the revenue records, according to the petitioner, despite an order of stay having been granted in a writ appeal by this Court. The instant application has been taken out by the plaintiff seeking to summon the Thasildar to give evidence regarding the transfer of Patta which is effected during the pendency of the suit.

4. The trial Court has dismissed the application on the conclusion that, the fact that the transfer was effected during the pendency of the suit and under the teeth of an order of stay granted a Writ appeal has been elicited in cross examination itself and therefore it is not necessary to examine the Thasildar.

5. I have heard Mr.R.Raja Rajan, learned counsel appearing for the petitioner and Mr.C.B.Muralikrishnan, learned counsel appearing for the respondent.

6. A perusal of the order of the trial Court shows that the learned trial Judge was alive to the fact that the mutation of the revenue records is borne out by records and no oral evidence is required in order to establish the same. If the mutation is during pendency of the suit, it is for the trial Court to decide on the validity or otherwise of the mutation at the time of the final disposal of the suit. It does not require the evidence of the Thasildar.

7. I am, therefore of the opinion that the trial Court was right in dismissing the application. I do not find any ground to interfere with the order of the trial Court. The revision therefore fails and it is accordingly dismissed.

8. It is now stated that the suit has been transferred to the Sub Court, Ponneri and it is pending on the file of the Sub Court, Ponneri. Considering the fact that the suit is of the year 2013 and the entire trial is already over and the suit is in the stage of arguments, the learned Subordinate Judge, Ponneri is directed to dispose of the suit within a period of eight weeks from the date of resumption of the physical

hearings in the Courts at Ponneri. The parties are required to cooperate with the Court in disposing of the suit within a time fixed above.

No costs. Consequently, connected miscellaneous petition is closed.

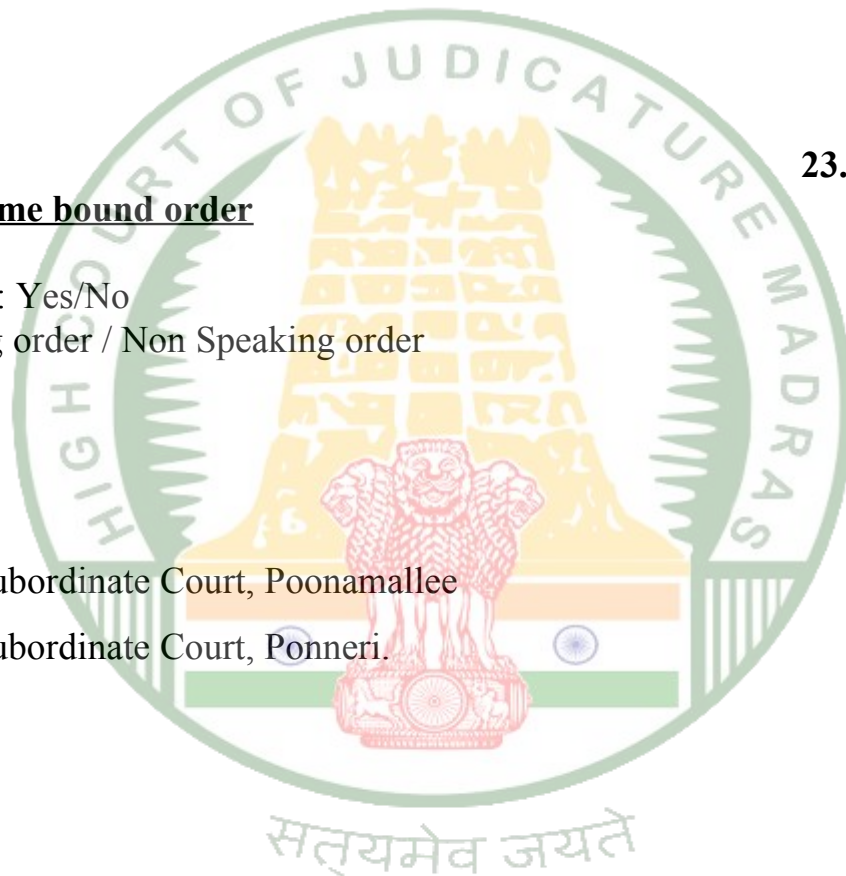
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Note: Time bound order

Index : Yes/No
Speaking order / Non Speaking order
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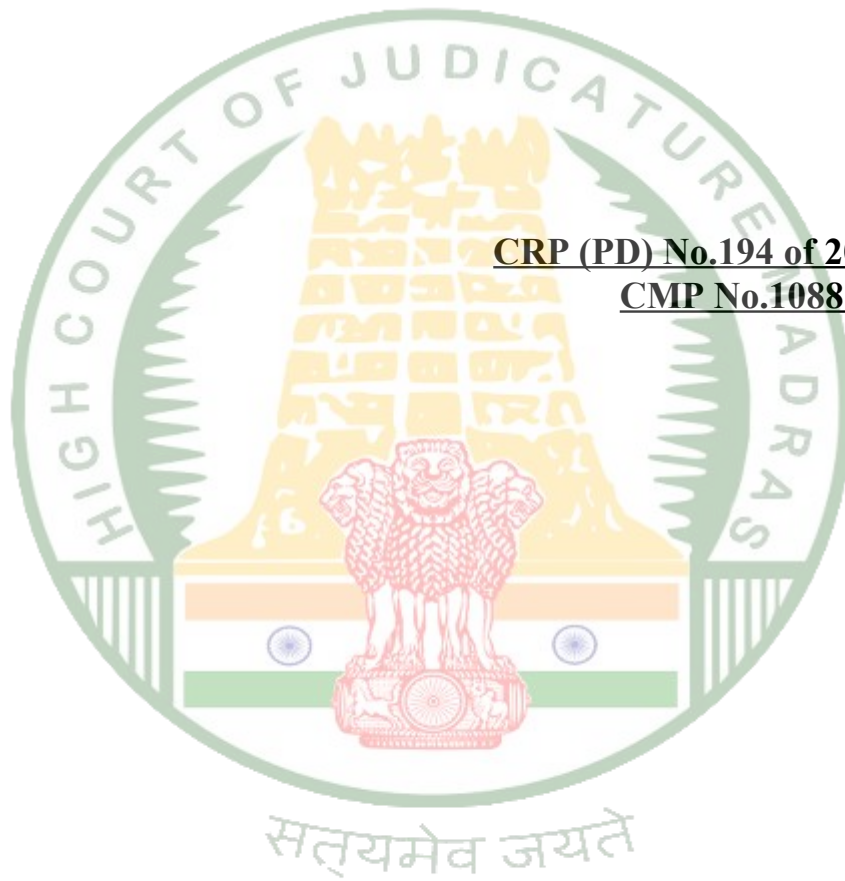
1. The Subordinate Court, Poonamallee
2. The Subordinate Court, Ponneri.



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R.SUBRAMANIAN, J.

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