

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CRP (NPD) No.994 of 2018
and CMP No.5323 of 2018

M.Selvaraj

... Petitioner

Vs

1. The Commissioner,
Tambaram Municipality,
Tambaram,
Chennai 600 045.

2. The Special Tahsildar,
Urban Land Tax,
Krishna Nagar,
Chennai 600 059.

... Respondents

Prayer: The Civil Revision petition filed under Article 227 of the Constitution of India, praying to direct the District Munsif Court, Tambaram to number the OS SR No.1027 of 2018 filed on 26.02.2018.

For Petitioner

:Mr.S.Thirumavalavan

ORDER

This revision is by the plaintiff in an unnumbered suit, challenging an order returning the plaint. Since the plaint was returned without notice to the defendants, notice to the defendants in the Civil Revision petition is deemed unnecessary and the same is dispensed with.

2. The respondent Municipality issued a notice to the petitioner requiring him to vacate from the property claiming that he has encroached upon the Municipal property. This notice was challenged by the petitioner in W.P. No.15900 of 2013. By order dated 02.12.2013, the Hon'ble Division Bench of this Court directed the impugned in the writ petition namely the notice dated 30.05.2013 to be treated as a show cause notice, required the petitioner to file objection and directed the Municipality to pass fresh orders. In compliance with the direction, the Municipality passed an order of eviction on 29.01.2018. The petitioner has filed the instant suit challenging the said order.

3. The case of the petitioner is that he has not encroached upon the property. The learned District Munsif, Tambaram, returned the plaint on the ground that the order dated 29.01.2018 has been passed, pursuant to a direction of this Court made in the writ petition and therefore, the suit challenging the said order is not maintainable. I am unable to sustain the view of the learned District Munsif. If a Statutory Authority in exercise of its powers, passes an order, that order is open to challenge either by way of a Civil suit or under the Statute if the Statute provides for a challenge. Merely because the order is passed upon a direction of the Division Bench of this Court, it cannot be said that the order cannot be challenged. Therefore, the order of the learned District Munsif, Tambaram, dated 26.02.2018 returning the plaint is set aside. The learned District Munsif, Tambaram is directed to number the suit and dispose it of in accordance with law. The Civil Revision petition is therefore allowed.

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4. The Registry is directed to return the original plaint that has been filed along with the Civil Revision petition to the counsel for the

petitioner forthwith. The petitioner is permitted to represent the plaint within 30 days from the date of receipt of the same from the Registry of the High Court and the learned District Munsif, upon such representation, shall number the suit and proceed with it in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

29.09.2020

Note: Time Bound order

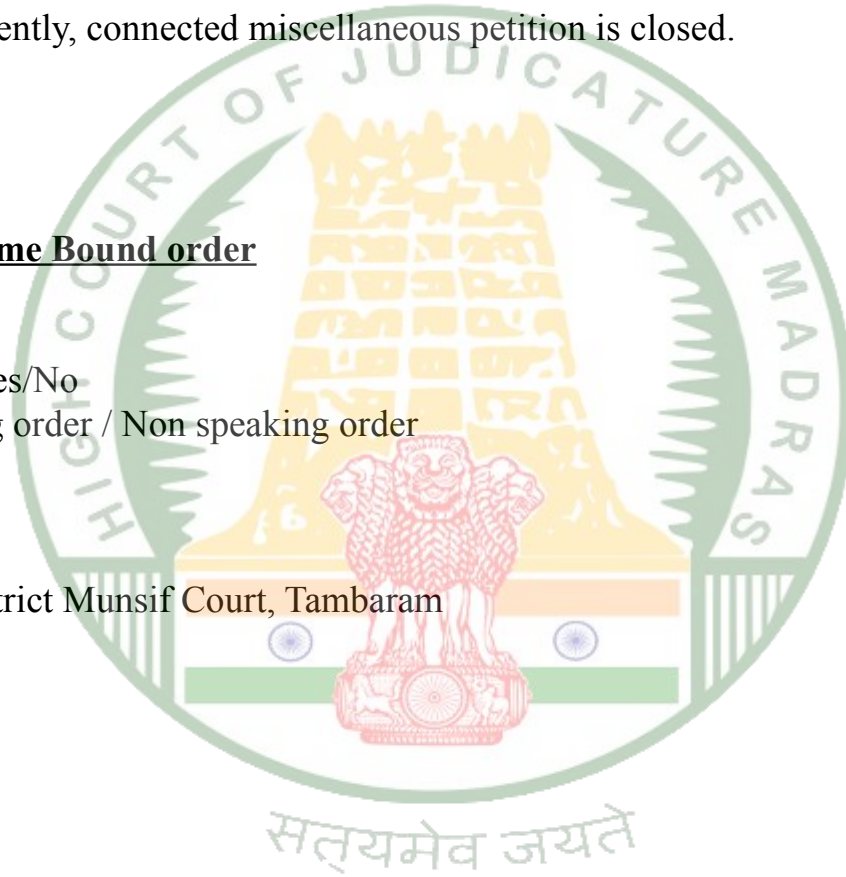
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Index: Yes/No

Speaking order / Non speaking order

To

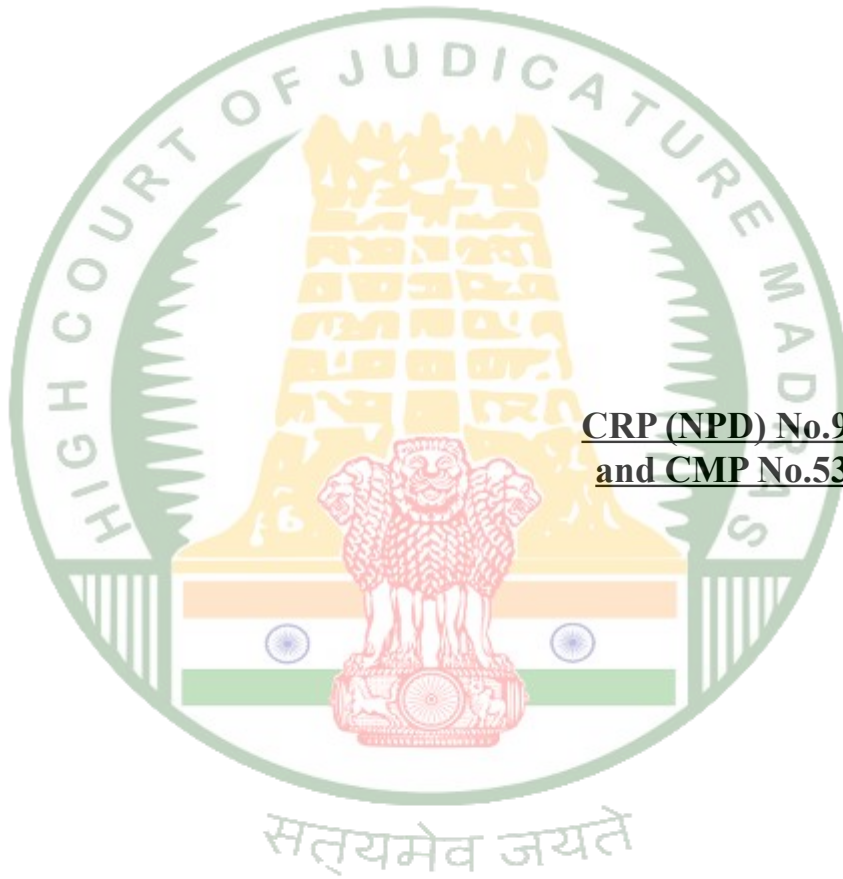
The District Munsif Court, Tambaram



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R.SUBRAMANIAN, J.

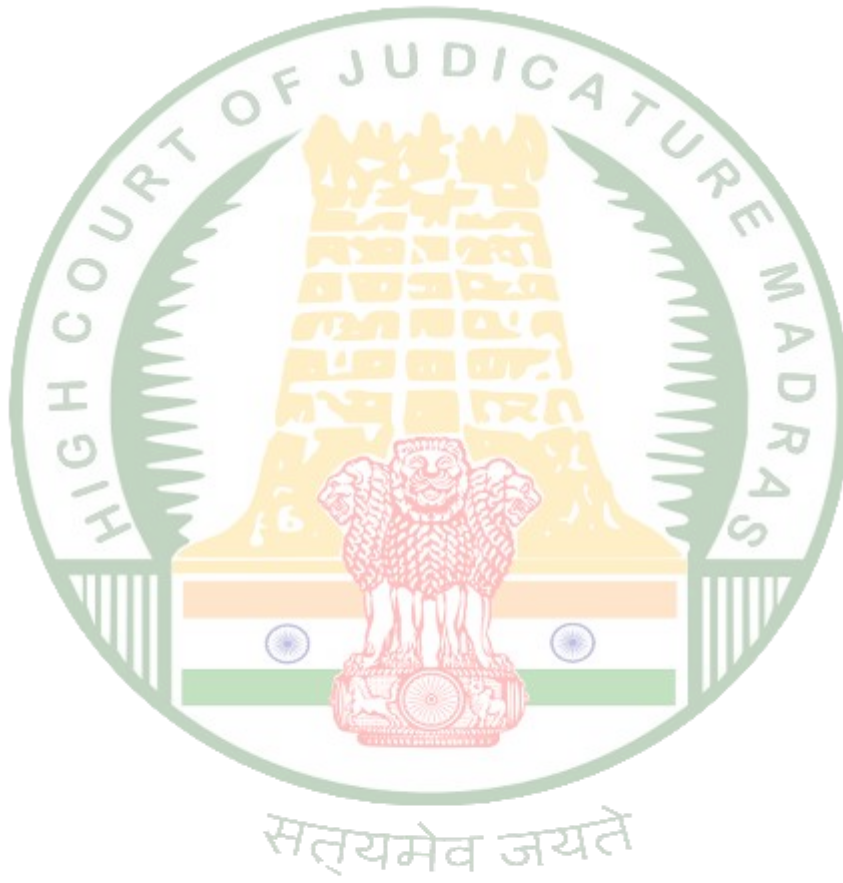
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