

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved On : 20.11.2019

Pronounced On : 24.01.2020

CORAM:

THE HON'BLE Mr. JUSTICE R.PONGIAPPAN

Civil Revision Petition (NPD) No.4895 of 2014

and

M.P.No.1 of 2014

Chinnasamy

.. Petitioner

Vs

1. K.Kanagaraj
2. Revathi
3. K.Narayanan
4. Iyammal
5. Munusamy

.. Respondents

[R2 to R5 were set exparte before the lower Court. Hence, notice to R2 to R5, is dispensed with as per memo dated 17.09.2019 (presented in Court) and vide order of the Court dated 17.09.2019 made in CRP (NPD) No.4895 of 2014 [RPAJ]]

PRAYER: Civil Revision Petition filed under Section 115 of Code of Civil Procedure, to set aside the Fair and Decreetal order dated 22.08.2014 made in I.A.No.11 of 2010 in unnumbered C.M.A. of 2010 on the file of the Subordinate Court, Sankari.

For Petitioner : Mr.R.Subramanian

For Respondents : No appearance (for R1)

ORDER

The petitioner is the plaintiff in OS No.179 of 2005, on the file of the District Munsif Court, Sankari. The Civil Revision Petition is directed against the order dated 22.08.2014 passed in I.A No.11 of 2010 in unnumbered CMA of 2010 on the file of the Subordinate Court, Sankari.

2. Before filing the appeal in AS No.8 of 2010 on the file of learned Subordinate Judge, Sankari, the petitioner herein as a plaintiff filed the suit as against the respondents for the relief of declaration and permanent injunction. The trial Court has granted the relief of declaration, declaring that the petitioner/plaintiff is the absolute owner of the suit property. However, the relief of mandatory injunction and the perpetual injunction sought for by the plaintiff was negated by the trial Court. As regards the said finding he filed the above referred appeal.

3. During the pendency of the suit, before the trial Court, the plaintiff filed IA No.690 of 2005 in which an order of ad interim injunction was granted in favour of the petitioner/plaintiff. When the said order was in force, it is alleged on the side of the petitioner/plaintiff, that the defendants wrongfully entered into the possession of the plaintiff's suit scheduled property. On that aspect the petitioner/plaintiff filed an

interlocutory application under Order XXXIX Rule 2(A)(1) CPC in IA No.452 of 2008 and that the same was dismissed by order dated 19.11.2009, against which the petitioner/plaintiff preferred a Civil Miscellaneous Appeal before the Subordinate Court, Sankari, with a delay of 109 days. After elaborate enquiry, by order dated 22.08.2014 the condone delay application in I.A.No.11 of 2010 in unnumbered CMA of 2010, was dismissed and the learned Subordinate Judge, Sankari, refused to condone the delay, against which the petitioner has preferred the present Civil Revision Petition.

4. As of now, the dispute between the petitioner/plaintiff and the respondents/defendants in respect of the title and possession, came up before this Court in SA No.1112 of 2013 and the same was disposed of by this Court, holding that the petitioner/plaintiff is entitled to the relief of declaration and injunction. Therefore, nothing survives in this Civil Revision Petition, for further adjudication. Accordingly, the Civil Revision Petition is disposed of. No Costs. Consequently, the connected Miscellaneous Petition is closed.

24.01.2020

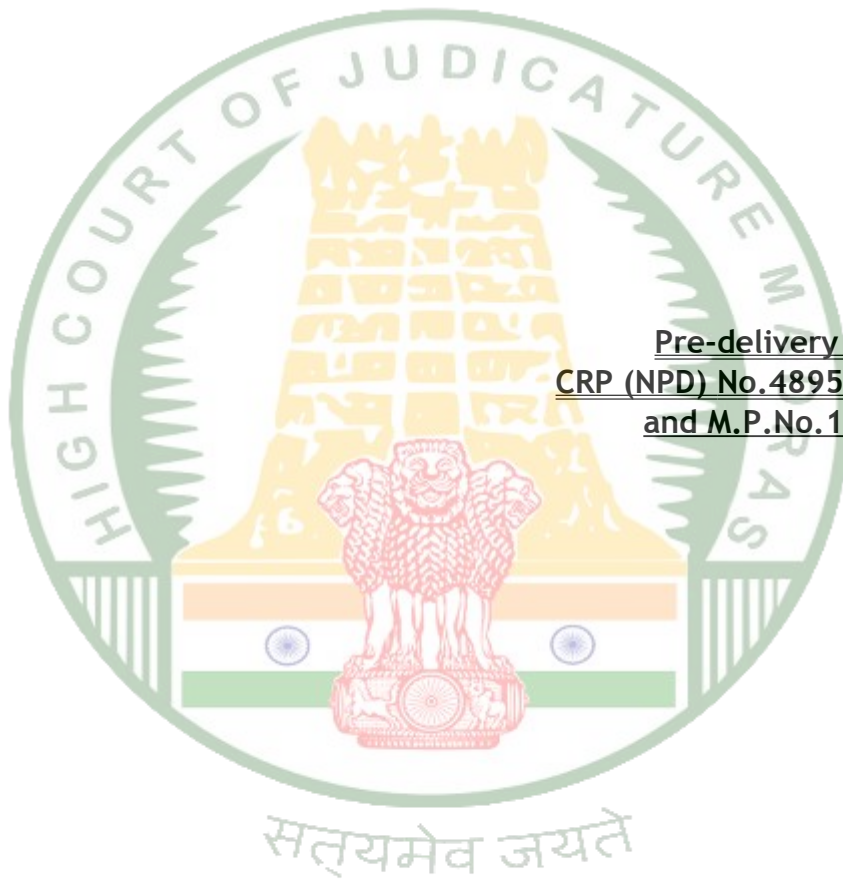
Speaking/Non-speaking order
Index: Yes/No
Internet: Yes

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R.PONGIAPPAN, J.,
ars

To

The Subordinate Judge, Sankari.



Pre-delivery order in
CRP (NPD) No.4895 of 2014
and M.P.No.1 of 2014
(2/2)

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