

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.02.2020

CORAM:

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

C.R.P(NPD).Nos.4281 & 4282 of 2017

1. A. Padmasini
 2. M. Vaiyapuri
- ... Petitioners in both CRPs

1. The State of Tamil Nadu,
rep. by the District Collector,
Salem.

2. The Tahsildar,
Omalur, Salem District.

3. The Joint Commissioner,
HR & CE, Salem.

4. Arulmigh Kailasanathar Devasthanam,
rep. by the Executive Officer,
Tharamangalam
- ... Respondents in both CRPs

PRAYER in both CRPs : Civil Revision Petitions filed under article 227 of Constitution of India to allow the Civil Revision Petition setting aside the order of decreetal order of the learned Subordinate Judge, Mettur dated 07.04.2016 in I.A.Nos.583 & 584 of 2015 in O.S.No.239 of 2010 .

For Petitioner : Mr. T.M.Hariharan
in both CRPs

COMMON ORDER

These Civil Revision Petitions have been filed against the order dismissing the petitioners' applications to reopen the suit and issue summons to the Taluk Surveyor, Omalur Taluk to produce the F.M.B. Sketches and also examine one T.M.S. Samaraj.

2. The petitioners/plaintiffs have filed a suit in O.S.No.239 of 2010 on the file of the Sub-Court, Mettur for injunction restraining the 4th defendant from leasing out the property and also seeking direction to the 4th

defendant to pay the lease amount paid by the plaintiffs. The suit has been filed on the ground the 4th respondent Temple conducted a public auction to lease out the property and the petitioners are the successful bidders, and the lease was granted in their favour and they are in possession and enjoyment of the property as lessee. Subsequently, they came to know that the land does not belong to the 4th respondent temple and it is a poromboke land. After closing of the evidence, the petitioners came out with the petitions to reopen the suit and issue summons to the Taluk Surveyor, Omalur to produce F.M.B. Sketch and also examine one Samaraj, who is a neighbour of the petitioner and those applications came to be dismissed. Now, challenging the same, the present revisions have been filed.

3. Heard the learned counsel for the petitioner and perused the materials available on records carefully.

4. The suit is filed for injunction and for recovery of lease amount paid by the plaintiffs. According to them, even though the property was leased out by the 4th respondent Temple, it is only a Government Poromboke land and the 4th respondent has no right to lease out the same to

the petitioners. Hence, they sought for injunction from the 4th respondent restraining them from leasing out the property and also to return the lease amount paid by them. In the suit, trial was over. At that stage, the petitions have been filed to issue summon to the Taluk Surveyor, Omalur Taluk, to produce the F.M.B. sketches and to give evidence and also examine some third party. The contention of the petitioners is that the suit property is a poromboke land and it is for the plaintiffs to establish the same by relevant records. If the petitioners want to file F.M.B. sketch, they can very well obtain the certified copy of the same and for that purpose they need not summon the Taluk Surveyor. That apart, the Taluk Surveyor is also not competent to say that the suit property is a poromboke land or belongs to the 4th respondent. That apart, the issue involved in the suit is whether the suit land is poromboke land or it belongs to the 4th respondent Temple, and no third party can give evidence on that score. It is for the petitioners/plaintiffs to prove the same by evidence. Considering all the above materials, the trial Court rightly dismissed the application. I find no illegality or irregularity in the order passed by the Court below and I find no merit in the revision.

5. Accordingly, both the Civil Revision Petitions are dismissed. No costs.

13.02.2020

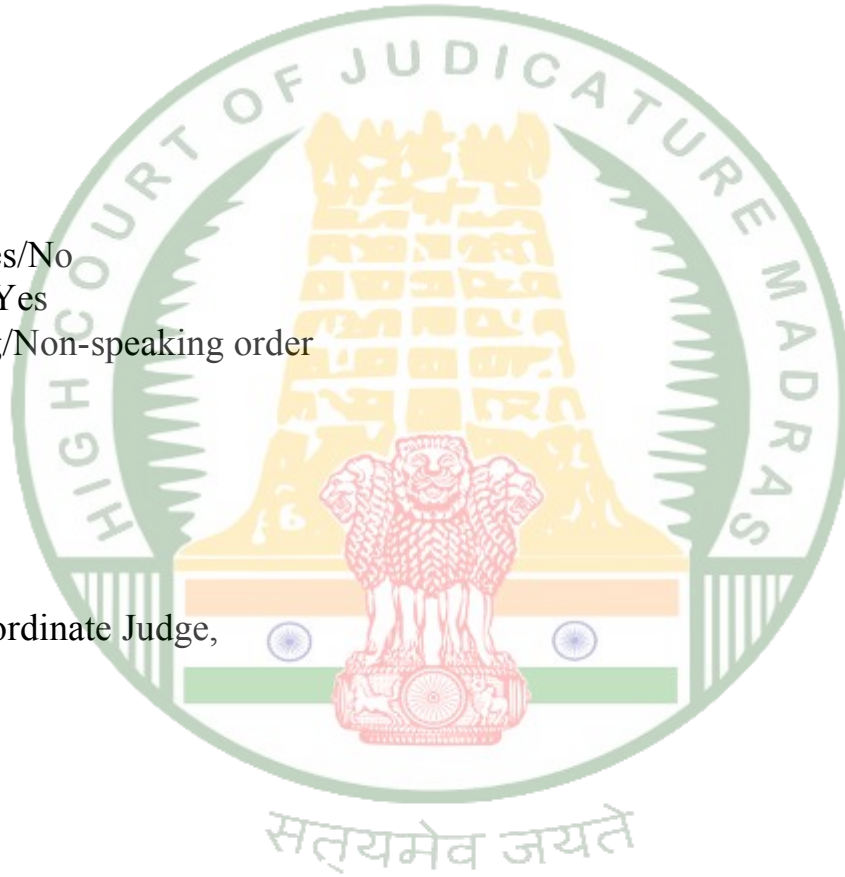
Index: Yes/No
Internet: Yes
Speaking/Non-speaking order

mrp

To

The Subordinate Judge,

Mettur

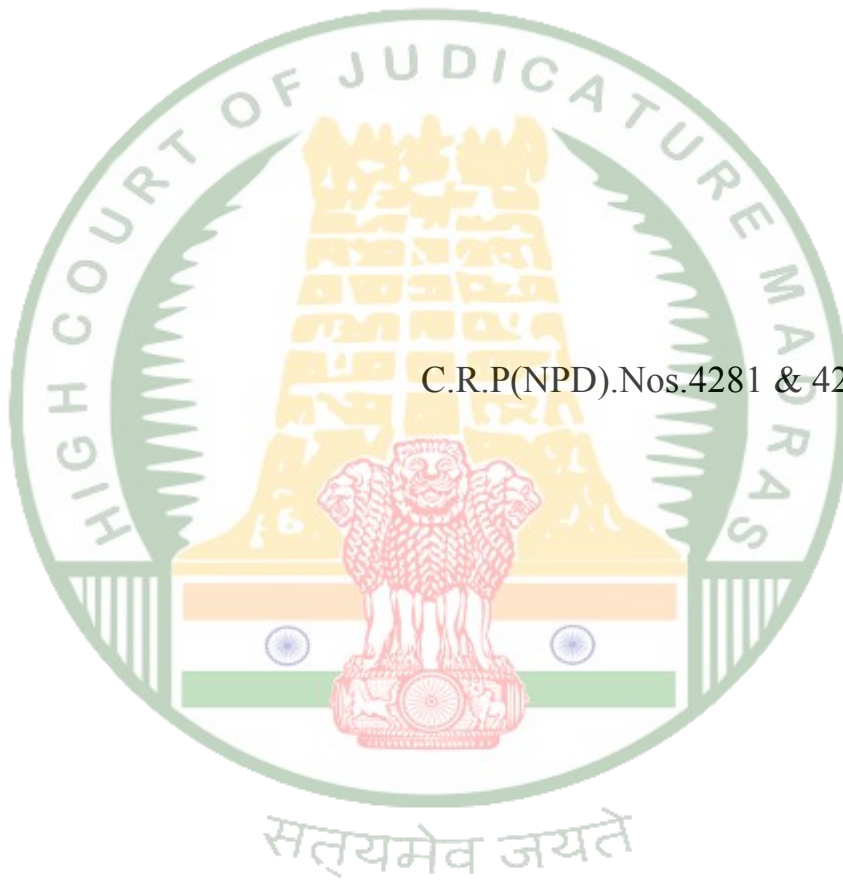


WEB COPY

C.R.P(NPD).No.4281 & 4282 of 2017

V.BHARATHIDASAN, J

mrp



C.R.P(NPD).Nos.4281 & 4282 of 2017

WEB COPY 13.02.2020

6/6