

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.10.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P(PD)No. 3312 of 2018

and

C.M.P.No. 18758 of 2018

1.S.Murugan

2.A.Babu

...Petitioners

Vs.

P.Anbazhagan

...Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, to strike out the plaint in O.S.No. 10 of 2017 pending trial before the learned District Munsif, Vandavasi.

For Petitioner : Mr.V.Pavel

For Respondents : Mr.E.Sathiyaraj

सत्यमेव जयते

ORDER

This civil revision petition has been filed under Article 227 of the Constitution of India, seeking to strike out the plaint in O.S.No. 10 of 2017.

2. The main ground on which striking out the plaint is sought for is that the plaintiff / respondent herein has filed two earlier suits for the very same relief of declaration and injunction in O.S.Nos. 734 of 1986 and 370 of 1997 and both the suits have dismissed for default. Therefore, the present suit is barred under Order 9 Rule 9 of C.P.C. I do not think the exercise whether the suit is barred under Order 9 Rule 9 can be conveniently decided in the revision filed under Article 227 of the Constitution of India.

3. Admittedly, the petitioner has not approached the Trial Court seeking rejection of the plaint under Order 7 Rule 11 of C.P.C. Therefore, leaving it open to the petitioner to move an application before the Trial Court seeking rejection of the plaint under Order 7 Rule 11 of C.P.C. this civil revision petition is dismissed. Consequently connected miscellaneous petition is closed. No costs.

4. It is made clear that if any application is filed under Order 7 Rule 11, the Trial Court will decide the same on merits without being influenced by any of the observations made in this order. This order shall

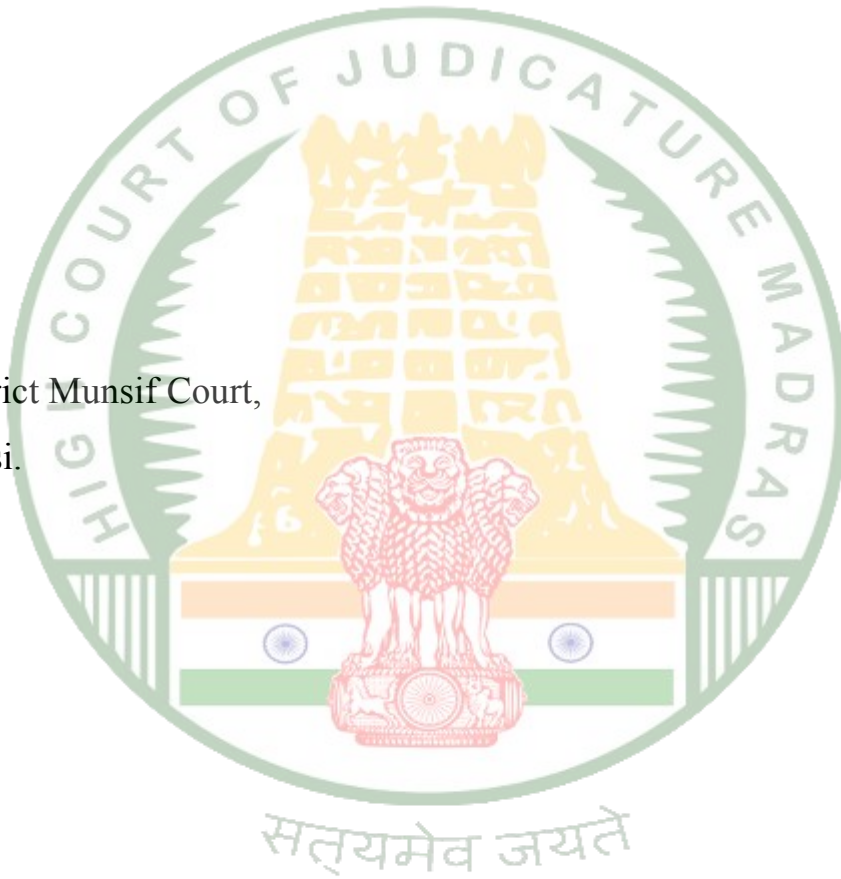
not be treated as a licence to petitioner to seek an order of rejection of
plaint.

06.10.2020

kkn

To:

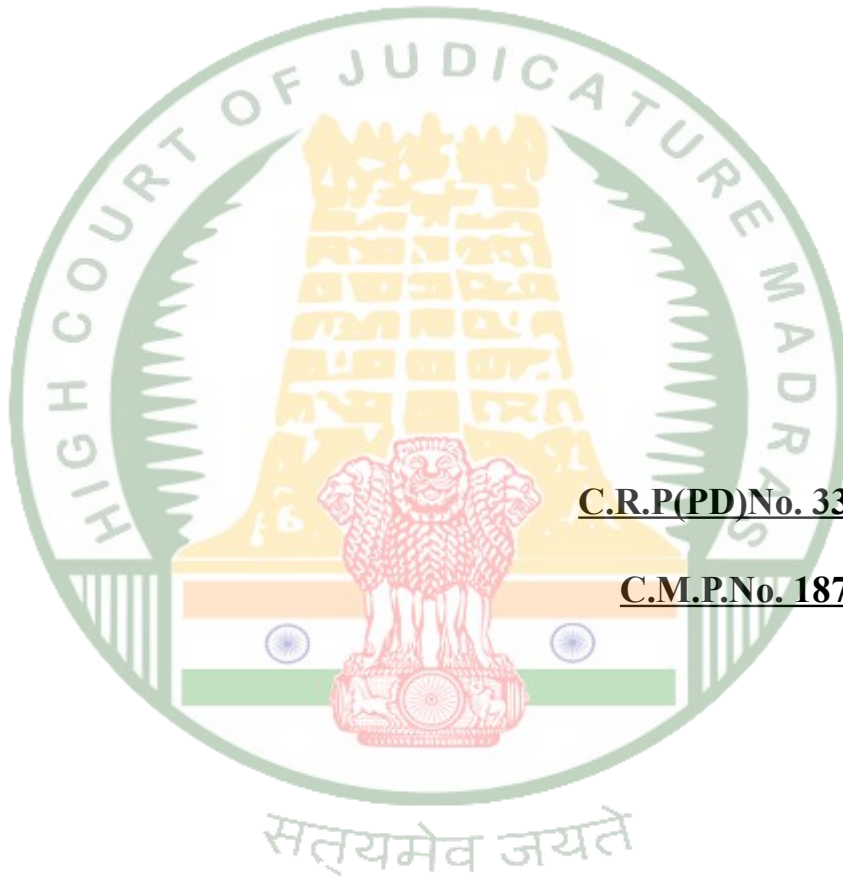
The District Munsif Court,
Vandavasi.



WEB COPY

C.R.P(PD)No 3312 of 2018
and C.M.P.No. 18758 of 2018

R.SUBRAMANIAN, J.
KKN



C.R.P(PD)No. 3312 of 2018
and
C.M.P.No. 18758 of 2018

WEB COPY

06.10.2020



WEB COPY