

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2021

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

C.R.P.(PD) No.3808 of 2015
and M.P.No.1 of 2015

T.K.Gunasekar ... Petitioner

Vs.

Sathayanarayana Chetty ... Respondent

Prayer :- Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 04.12.2014 in I.A.No.587 of 2014 in O.S.No.98 of 2011 on the file of the learned District Munsif of Gudiyattam.

For Petitioner : Mr.V.Rahupathi

For Respondent : Mr.G.Vinoth Kumar

ORDER

This Civil Revision Petition has been filed as against the fair and decreetal order dated 04.12.2014 passed by the learned District Munsif of Gudiyattam in I.A.No.587 of 2014 in O.S.No.98 of 2011, thereby

dismissing the petition seeking permission to file additional written statement by the petitioner herein.

2. The petitioner is the defendant in the suit filed by the respondent for declaration and recovery of possession with means profit in respect of the suit property. The respondent/plaintiff examined himself as P.W.1. When the cross examination of P.W.1, the respondent/plaintiff filed additional proof affidavit and the same was accepted by the trial Court. The examination of P.W.1 was closed on 24.06.2014 and the matter was posted for defense side evidence. On 30.11.2014, the petitioner/defendant filed petition in I.A.No.587 of 2014, seeking permission to file additional written statement. The trial Court dismissed the above said petition as against which the present civil revision petition.

3. On perusal of records, it revealed the fact that in the written statement the petitioner/defendant categorically admitted that the suit A schedule property belonged to the respondent/plaintiff and the property situated adjacent to the suit schedule property belonged to the petitioner/

defendant. In respect of B Schedule property, it belonged to the respondent/ plaintiff and the defendants claimed the possession in respect of the B Schedule property. Now the petitioner seeks permission to file additional written statement with the plea that the A Schedule property is not belonged to the respondent/plaintiff. Therefore, the addition written statement which is intended to file by the petitioner/defendant is diametrically contra to the first written statement filed by him.

4. That apart when the respondent/plaintiff was permitted to file additional proof affidavit after cross-examination as P.W.1, it does not mean that the petitioner/defendant also permitted to file additional written statement. Plaint and the examination of P.W.1 are completely different one and if the different view taken by way of amendment of plaint, the defendant can be permitted to file additional written statement. Whereas when P.W.1 was permitted to filed additional proof affidavit in his examination, the defendant cannot be permitted to file any additional written statement to the suit. Therefore, the trial Court rightly dismissed the petition filed by the petitioner and this Court finds no illegality or infirmity

in the order passed by the Court below. However, considering the fact that the suit is of the year 2011, the trial Court is directed to dispose of the suit within a period of nine months from the date of receipt of a copy of this Order.

5. With the above direction, this Civil Revision Petition stands dismissed. There shall be no order as to costs. Consequently, connected miscellaneous is closed.

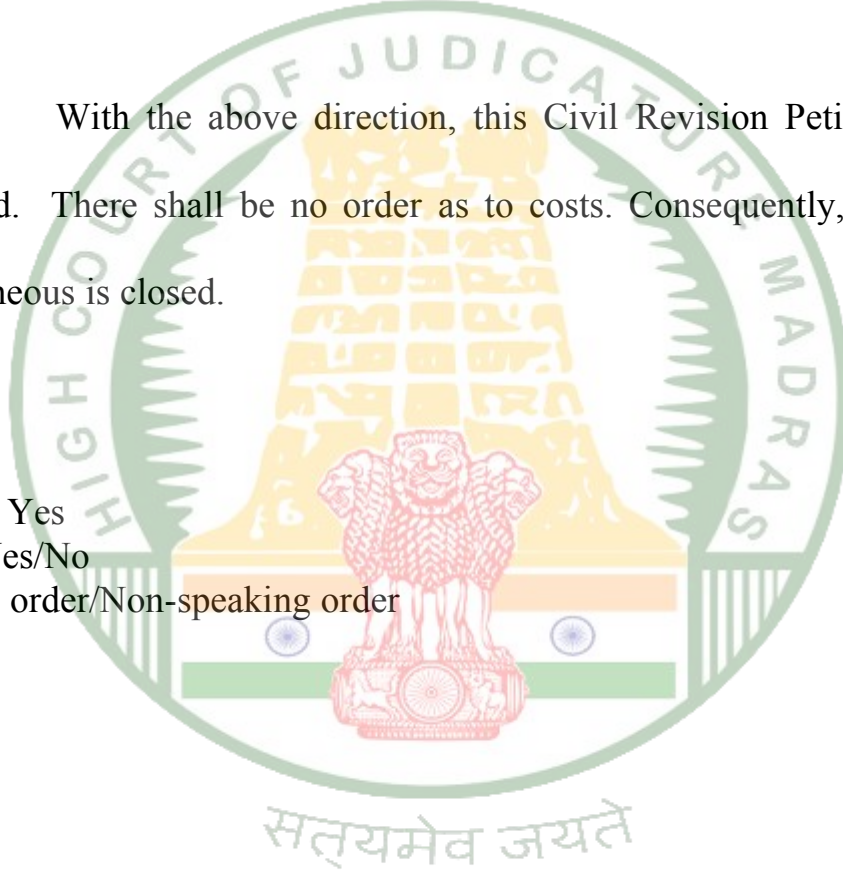
19.01.2021

Internet : Yes

Index : Yes/No

Speaking order/Non-speaking order

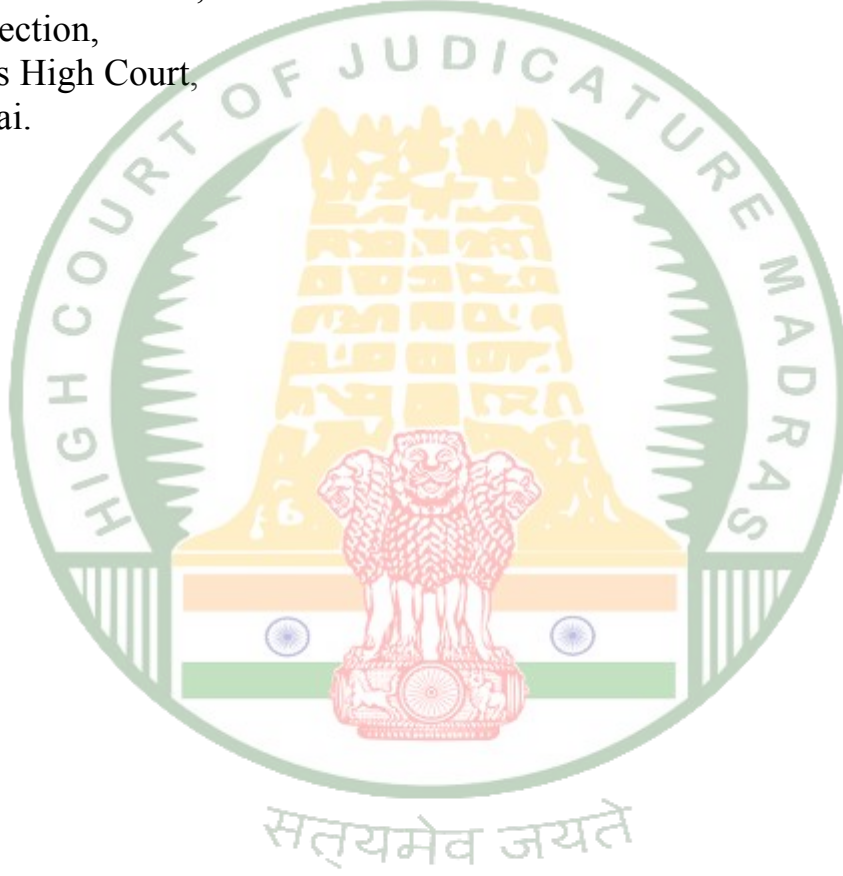
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To

1. The District Munsif,
Gudiyattam.
2. The Section Officer,
V.R. Section,
Madras High Court,
Chennai.

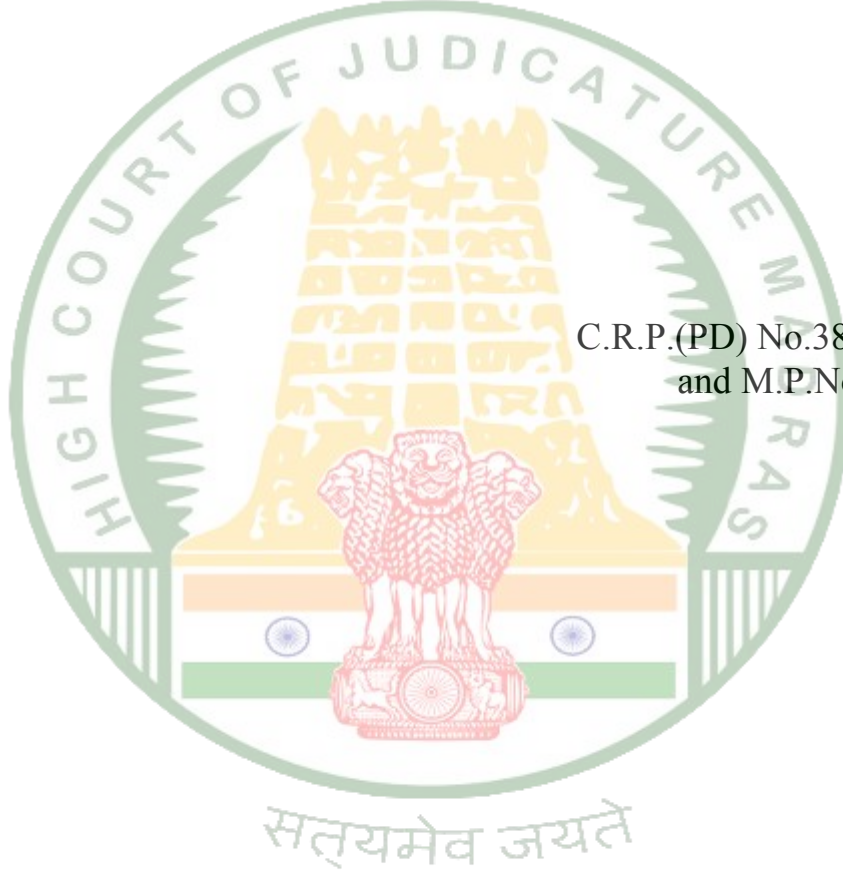


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G.K.ILANTHIRAIYAN, J.

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