

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2021

CORAM

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

C.R.P.(PD)No.1706 of 2018
and C.M.P.No.9355 of 2018

1. K.Selvi
2. T.Thamilarasi
3. N.Krishnaveni
4. M.Mangayarkarasi

... Petitioners

Vs.

1. S.Elango
2. S.Mariyammal
3. G.Lakshmi
4. G.Thoppa Gounder
5. L.Anusuya
6. R.Jamuna
7. R.Thendral
8. R.Karthik
9. S.Kayathri
10. K.Sakthivel
11. Guna
12. Chandra
13. Komani
14. V.Lakshmi
15. M.Kamala

... Respondents

Prayer :- Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the docket order dated 14.03.2018 made in I.A.No.306 of 2017 in O.S.No.296 of 2016, on the file of the II Additional District Court, Salem.

For Petitioners : Mr.K.Sathish Kumar

For Respondents

For R1 : Mr.P.Mani

For R2 to R15 : No appearance

ORDER

This Civil Revision Petition has been filed as against the docket order dated 14.03.2018 passed by the learned II Additional District Judge, Salem, in I.A.No.306 of 2017 in O.S.No.296 of 2016, thereby appointing an Advocate Commissioner to divide the suit property.

2. The petitioners are the defendants 4 to 7 and the respondents 1 & 2 are the plaintiffs. The respondents 1 & 2 filed suit in O.S.No.296 of 2016 for partition. The petitioners herein were set exparte and exparte decree was passed on 28.03.2017. On the strength of the decree, the respondents 1 & 2 filed final decree application in I.A.No.306 of 2017. In the final decree application, the petitioners were served noticed and

thereafter they filed petition to set aside the ex parte decree and the same is pending. While pending the said petition, the Court below appointed an Advocate Commissioner in the final decree application and directed him to divide the suit property into three equal shares and to allot 1/3th share as per the preliminary decree. Aggrieved by the said order, the petitioners filed this present Civil Revision Petition.

3. Admittedly, the petitioners have filed petition to set aside the ex-parte decree and the same is pending. The suit is filed for partition. In view of the above, though the Advocate Commissioner was appointed to divide the suit property into three equal shares, till disposal of the petition to set aside ex-parte decree, the order passed by the Court below shall be kept in abeyance.

4. Accordingly, the order dated 14.03.2018 passed by the learned II Additional District Judge, Salem, in I.A.No.306 of 2017 in O.S.No.296 of 2016 shall be kept in abeyance, till the disposal of the petition filed by the petitioners to set aside the ex-parte decree. Further, the Court below is

directed to dispose of the petition to set aside ex-parte decree, within a period of twelve weeks from the date of the receipt of a copy of this Order, if not already disposed of.

5. With the above directions, this Civil Revision Petition is disposed of. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

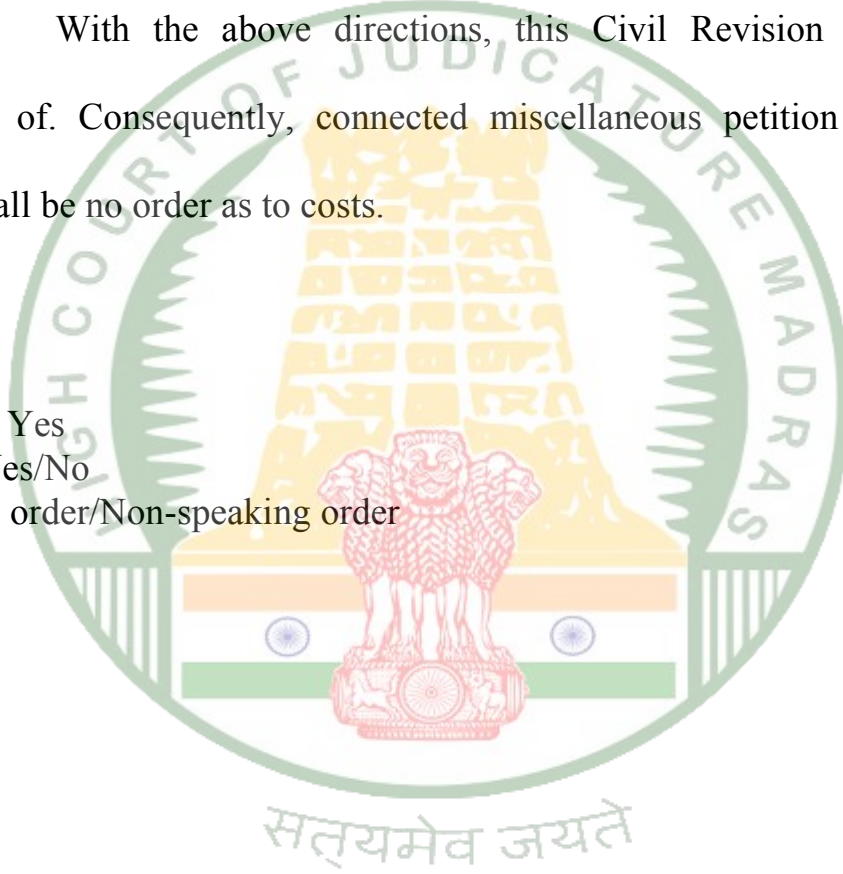
30.07.2021

Internet : Yes

Index : Yes/No

Speaking order/Non-speaking order

rts



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To

1. The II Additional District Judge,
Salem.
2. The Section Officer,
V.R. Section,
Madras High Court,
Chennai.

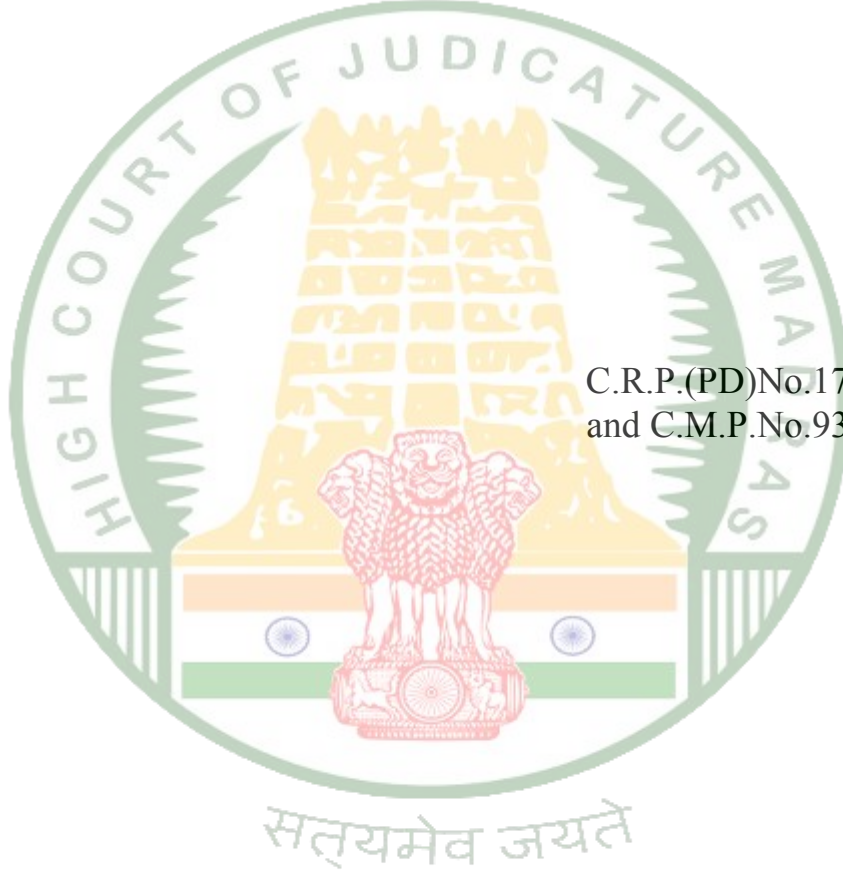


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G.K.ILANTHIRAIYAN, J.

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