

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.03.2021

CORAM

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

CRP.PD.No.2567 of 2016

P.Amarnath

..Petitioner

Vs.

1.Umapathy

2.Pachiyappan(died)

3.Anbukanna

4.Anbukarasi

(R2 died; Sole appellant and R3 LR's of the deceased R3 C.Pachaippan vide court order dated 21.03.2018 made in CRP.No.2567 of 2016 and memo dated 22.07.2017; R4 impeladed as LR of the deceased R2 C.Pachaippan vide court order dated 21.03.2018 made in CRP.No.2567 of 2016 and memo dated 22.07.2017)

..Respondents

PRAYER:

The Civil Revision Petition is filed under Article 227 of the Constitution of India against the petition and order of the Principal District Munsif at Poonamallee dated 08.06.2016.

For Petitioner : Mr.R.Prasath

For Respondents : No Appearance

ORDER

This civil revision petition is filed against the order passed in IA.No.727 of 2015 in OS.No.271 of 2013 by the Principal District Munsif at Poonamallee dated 08.06.2016 thereby closed the petition.

2. The petitioner is the second defendant in the suit filed by the first respondent herein. The first respondent filed suit for injunction in respect of the suit property restraining the petitioner and others from interfering with his peaceful possession and enjoyment of the suit property except due process of law. While pending the suit, the petitioner filed petition for direction directing the first respondent herein to deposit the monthly rent of Rs.20,000/- for the suit property. The same was closed since if any order is passed in the said petition, it would affect the main suit.

3. The petitioner is the second defendant, his father is the first defendant and his brother is the third defendant in the suit filed by the first respondent herein. Originally, the suit property owned by the petitioner's father and the same was settled in favour of the petitioner herein by the settlement deed dated 17.04.2012. However, subsequently it was cancelled by the cancellation deed registered by his father dated 12.07.2012 in respect of the suit property. Aggrieved

by the same, the petitioner filed suit in OS.No.367 of 2012, in which interim injunction was also granted in his favour in respect of his possession and enjoyment of the suit property. Thereafter, the first respondent is being tenant filed present suit for injunction.

4. While pending the suit, the first defendant, namely the petitioner's father died and already the petitioner and his brother are on record. As such the petitioner filed petition to deposit the aggrieved monthly rent at Rs.20,000/- for the suit property. Admittedly, the petitioner's father now died and as such his legal heirs, i.e. the petitioner and the third respondent herein are on record and they are entitled to have their respective shares in the suit property. The trial court simply closed the petition with even ordering notice, receiving counter from the first respondent and closed the same.

5. In view of the above discussion, the civil revision petition is allowed and the order passed in IA.No.727 of 2015 in OS.No.271 of 2013 by the Principal District Munsif at Poonamallee dated 08.06.2016 is set aside. The matter is remanded back to the trial court for fresh consideration in IA.No.727 of 2015. The suit is of the year 2013 and as such the trial court is directed to dispose of the application in IA.No.727 of 2015 and the main suit in OS.No.271 of 2013 within a

period of three months from the date of receipt of copy of this order.

No order as to costs.

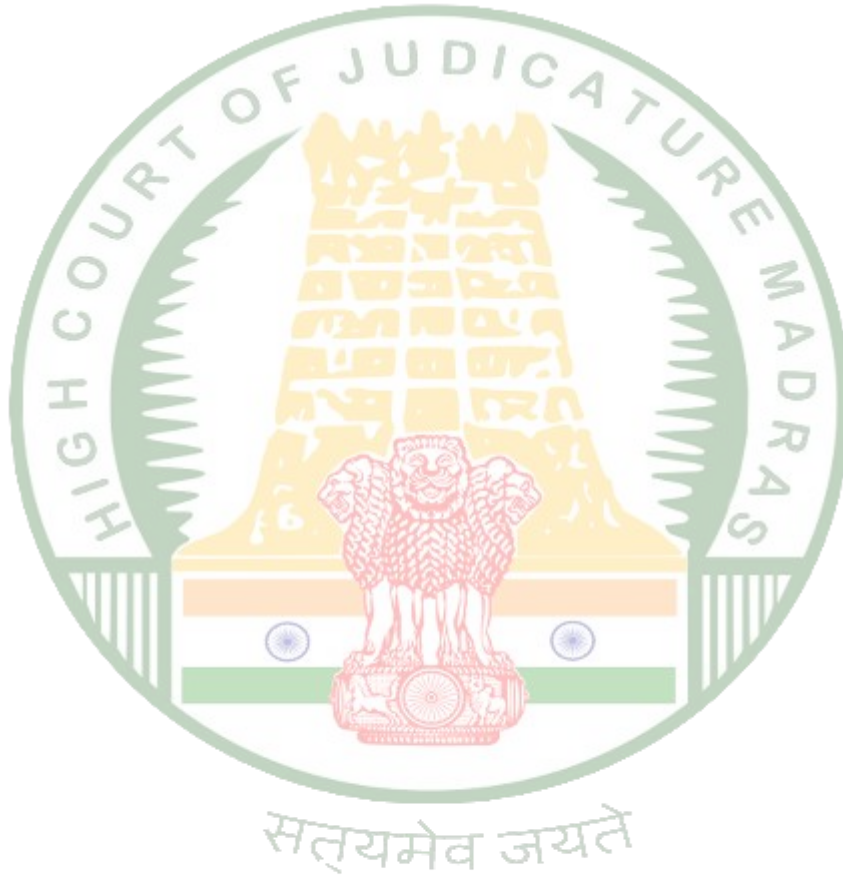
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Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

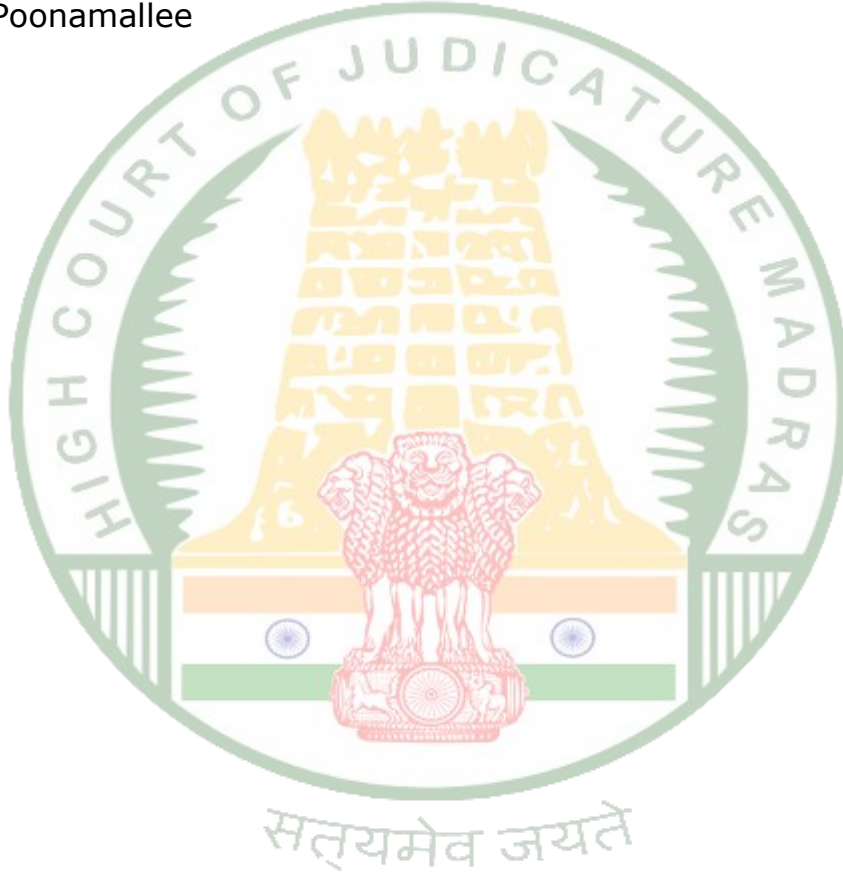
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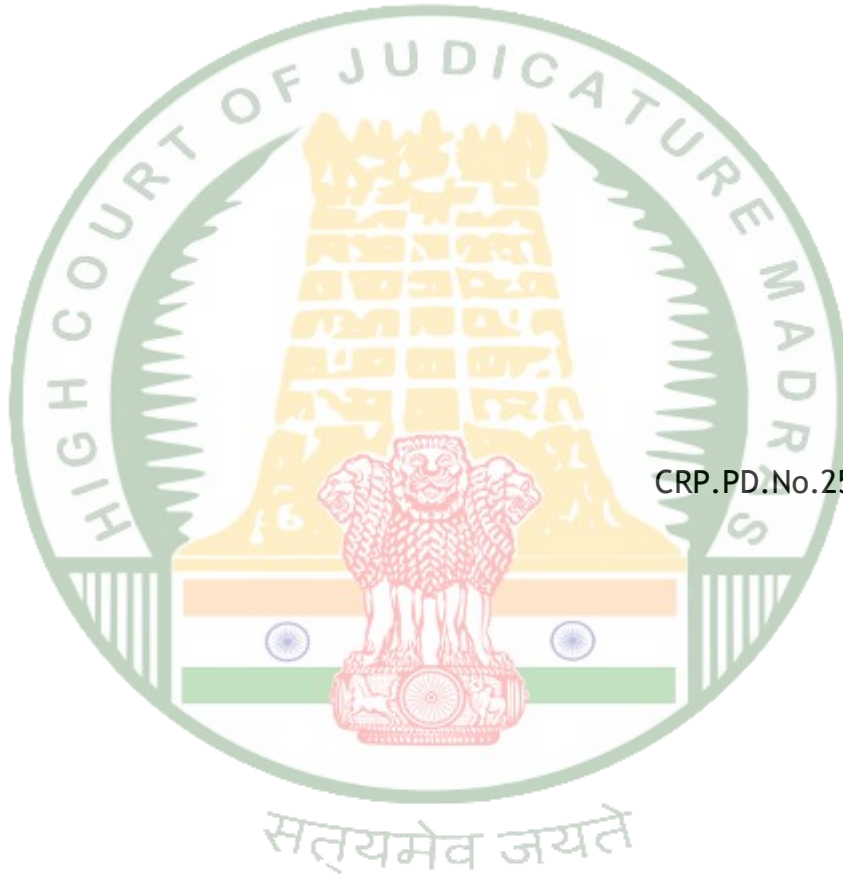
The Principal District Munsif
at Poonamallee



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G.K.ILANTHIRAIYAN,J.

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