

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.03.2021

CORAM

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

CRP.PD.Nos.3801 & 3802 of 2016

CRP.No.3801 of 2016

1.Sambovi
2.Geetha Annamalai
3.Lakshmanan
4.Vijayakumar
5.Kalpana

..Petitioners

Vs.

B.Kirubakaran

..Respondent

PRAYER:

The Civil Revision Petition is filed under Article 227 of the Constitution of India against the order dated 01.11.2016 passed in I.A.No.11565 of 2016 in OS.No.8935 of 2011 on the file of the XV Assistant Judge, City Civil Court at Chennai.

For Petitioners : Mr.Vijay Aganesh

For Respondent : Mr.V.Viswanathan

CRP.No.3802 of 2016

1.Sambovi
2.Geetha Annamalai
3.Lakshmanan

4.Vijayakumar
5.Kalpana

..Petitioners

Vs.

B.Kirubakaran

..Respondent

PRAYER:

The Civil Revision Petition is filed under Article 227 of the Constitution of India against the order dated 01.11.2016 passed in I.A.No.11742 of 2016 in OS.No.8935 of 2011 on the file of the XV Assistant Judge, City Civil Court at Chennai.

For Petitioners : Mr.Vijay Aganesh

For Respondent : Mr.V.Viswanathan

COMMON ORDER

These civil revision petitions are filed against the order dated 01.11.2016 passed in I.A.Nos.11565 & 11742 of 2016 in OS.No.8935 of 2011 on the file of the XV Assistant Judge, City Civil Court at Chennai thereby allowing the petitions to reopen and for appointment of advocate commissioner.

2. The petitioners are the defendants in the suit filed by the respondent herein. The respondent filed suit for declaration and

recovery of possession in respect of the suit property. The specific case of the plaintiff is that when they were out of the suit property for six months, the petitioners trespassed into the suit property and encroached upon the suit property. Whereas the case of the defendants is that they constructed their house in the year 1920 in the suit property. When it being so, they can very well established the same by production of approval plan, tax receipts and other related documents in respect of their possession and enjoyment of the property from the year 1920. When the suit was posted for arguments, that too for filing written arguments, the petitioners filed petitions for reopen and appointment of advocate commissioner to take assistance of the Assistant Engineer and conduct local inspection of the suit property to find out the age of the building situated thereon. It is nothing but collection of evidence and the petitioners ought to have proved their possession and enjoyment of the suit property by necessary material evidence.

3. Therefore, the court below rightly dismissed the petition for appointment of advocate commissioner and also dismissed the petition to reopen the case. Therefore, this Court finds no illegality or infirmity in the orders passed by the court below. Accordingly, these civil revision

petitions are dismissed. However, considering that the suit is of the year 2011, the trial court is directed to dispose of the suit within a period of twelve weeks from the date of receipt of copy of this order. No order as to costs.

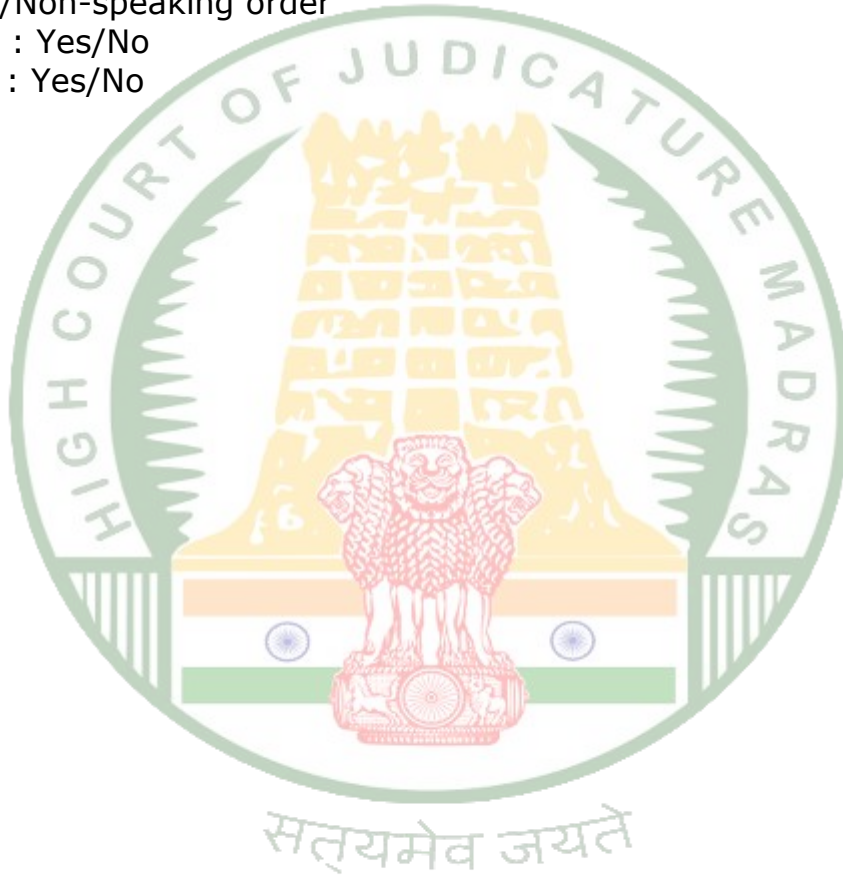
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Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

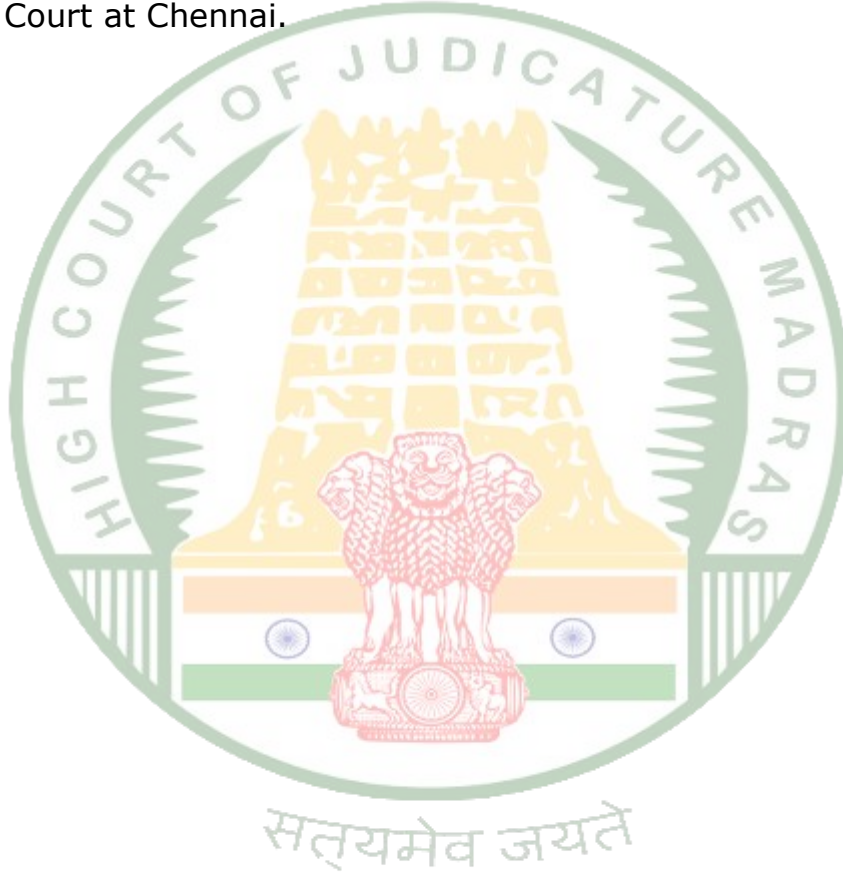
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To

The XV Assistant Judge,
City Civil Court at Chennai.



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G.K.ILANTHIRAIYAN,J.

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CRP.PD.Nos.3801 & 3802 of 2016

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