

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2021

CORAM

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

CRP (NPD) No.2931 of 2018

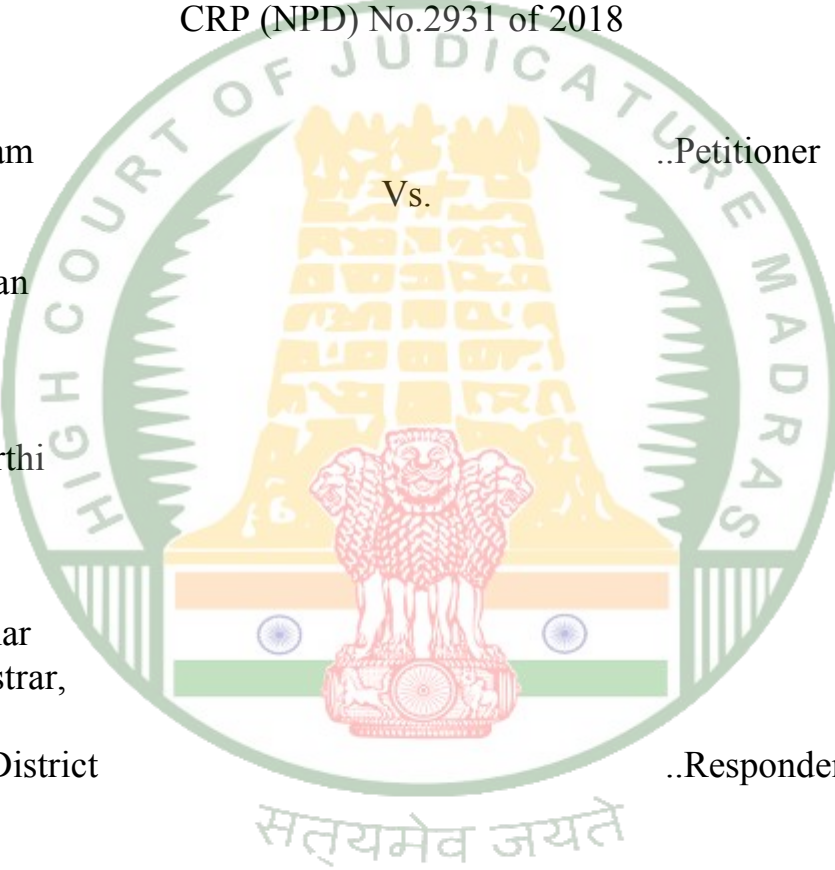
M.Shanmugam

..Petitioner

Vs.

1.Gunasekaran
2.Vasantha
3.Alamelu
4.Saraswathi
5.Sathiamoorthi
6.Sumathi
7.Saranya
8.Suganya
9.Desia Kumar
10.Sub Registrar,
Uthangarai,
Krishnagiri District

..Respondents



Prayer: Civil Revision Petition filed under Section 115 of Civil Procedure Code, to set aside the docket order dated 16.11.2017 and 02.02.2018 in A.S.(SR) No.7315 of 2017 on the file of the District Court, Krishnagiri against Judgment and Decree in O.S.No.32 of 2015 dated 23.06.2017 on the file of Sub Court, Uthangarai and direct the District Court, Krishnagiri allow the CMP (SR) No.7314 of 2015 and also to direct the District Court, Krishnagiri to number the A.S(SR) No.7315 of 2017.

For Petitioner : Mr.I.Murugan
For R1 : Mr. K.Thiruvengadam
For R2 to R10 : Given up

ORDER

The petitioner is the proposed party in the suit filed by the first respondent as against the other respondents for partition. In the said suit, the petitioner claimed to be one of the share holders and filed a petition to implead him as a party. Subsequently, it was withdrawn by force. Therefore, the petitioner also filed a suit for partition against the very same parties in O.S.No.77 of 2015 and the same was also decreed. To avoid the conflict of interest, the petitioner filed a suit in O.S.No.32 of 2015. The petitioner is permitted to file an appeal as against the Judgment and Decree passed in O.S.No.32 of 2015 on the file of the Sub Court, Uthangarai. However, the appeal is returned as not maintainable, since, the petitioner is not a party to the suit and directed to pursue the suit filed by him in O.S.No.77 of 2015. Admittedly, the suit in O.S.No.77 of 2015 also decreed for the very same property for partition. Therefore, to avoid the conflict of interest in both the decree, the petitioner can be permitted to file an appeal as against the Judgment and Decree passed in O.S.No.32 of 2015. Accordingly, the petitioner is directed to represent the appeal suit, within a period of two weeks from the date

of receipt of this order and the Appellate Court is directed to consider the application for permitting him to file an appeal suit on merits and in accordance with law.

2. With the above direction, the Civil Revision Petition is disposed of. Registry is directed to return the original papers to the counsel on record, forthwith. No costs.

29.04.2021

Speaking/Non-speaking order

Index : Yes/No

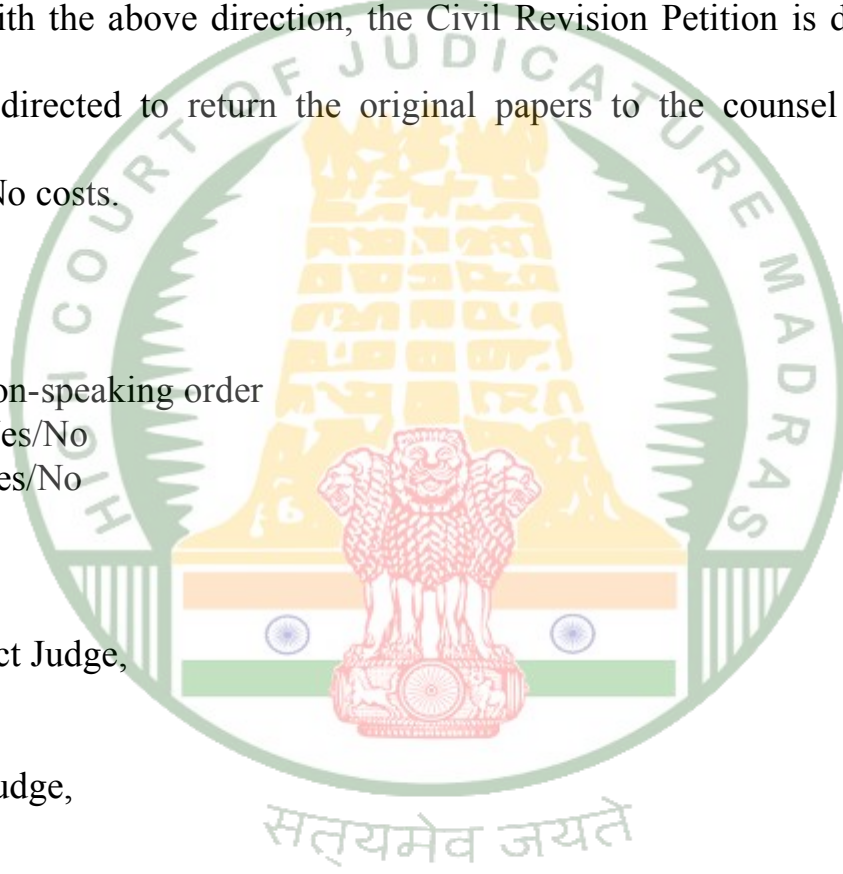
Internet : Yes/No

lpp

To

1.The District Judge,
Krishnagiri

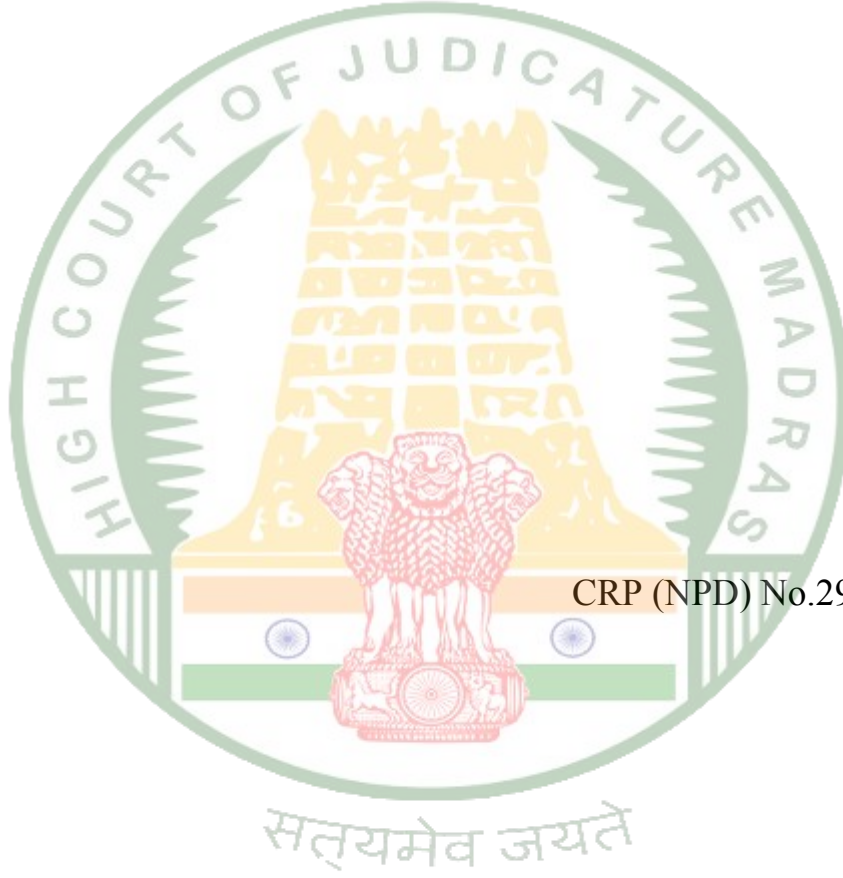
2.The Sub Judge,
Uthangarai.



WEB COPY

G.K.ILANTHIRAIYAN.J,

lpp



CRP (NPD) No.2931 of 2018

WEB COPY

29.04.2021