

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.06.2021

CORAM

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

CRP.PD.No.765 of 2018

and

CMP.No.3919 of 2018

A.Lakshmanan

..Petitioner

Vs.

1.K.Natarajan(died)

2.Maragatham

3.N.Chandrasekar

4.N.Jothimani

(R3 & 4 brought on record as LR's of the deceased R1 viz. K.Natarajan vide order of court dated 01.02.2021 made in CMP.No.20936/19 in CMP.No.3919/2018 in CRP.No.765/18 and CMP.No.20934/19 in CRP.No.765/2018

..Respondents

PRAYER:

The Civil Revision Petition is filed under Article 227 of the Constitution of India to allow the civil revision petition by setting aside the fair and decretal order dated 21.09.2017 passed in CMA.No.22 of 2016 on the file of II Additional Sub Court, Coimbatore and restore the fair and decretal order dated 05.10.2016 passed in IA.No.120 of 2016 in OS.No.805 of 2016 on the file of the II Additional District Munsif, Coimbatore.

For Petitioner : Mr.V.Venkkatasamy

For Respondents

For R2,3&4 : Mr.S.Arjun

R1 : died(steps taken)

ORDER

This Civil Revision Petition is filed against the fair and decretal order dated 21.09.2017 passed in CMA.No.22 of 2016 on the file of II Additional Sub Court, Coimbatore, thereby reversing the order passed by the court below in IA.No.120 of 2016 in OS.No.805 of 2016 on the file of the II Additional District Munsif, Coimbatore, thereby granted interim injunction.

2. The petitioner is the plaintiff and the respondents are the defendants. The petitioner filed suit for permanent injunction in respect of the suit property restraining the respondents from interfering with the petitioner's use and enjoyment of the water channel and the bund running in SF.No.766/1A. The interim injunction was granted in favour of the petitioner. Aggrieved by the same, the respondents filed appeal before the first appellate court and the same was reversed and dismissed the interim injunction. Aggrieved by the same, the present civil revision petition has been filed.

3. On perusal of records revealed that the suit property comprised in Survey no.766/1A is the water channel provided with bund on both sides. According to the respondents, the said bund is a patta land belong to them and it is exclusively used by the respondents to drain the excess water during the rainy season. According to the petitioner, it is a 'boosthari' water channel and used by common public and it is not belong to the respondents. He further submitted that in fact, the said boosthathi water channel was encroached by the respondents by putting up pillar stones and the same was objected by the petitioner and other public. Therefore, the Tahsildar of Vadavalli, Coimbatore Perur Taluk, initiated proceedings to remove the encroachment of the respondents by the notice dated 19.04.2018 and the same was duly received by the respondents on 21.04.2018.

4. Considering the above facts and circumstances of the case, both the petitioner as well as the respondents are directed to maintain '*status quo*' as on today till the disposal of the main suit. The trial court is directed to dispose of the suit within a period of nine months from the date of receipt of copy of this order.

5. With the above directions, this civil revision petition is disposed of. Consequently, connected miscellaneous petition is closed.
No order as to costs.

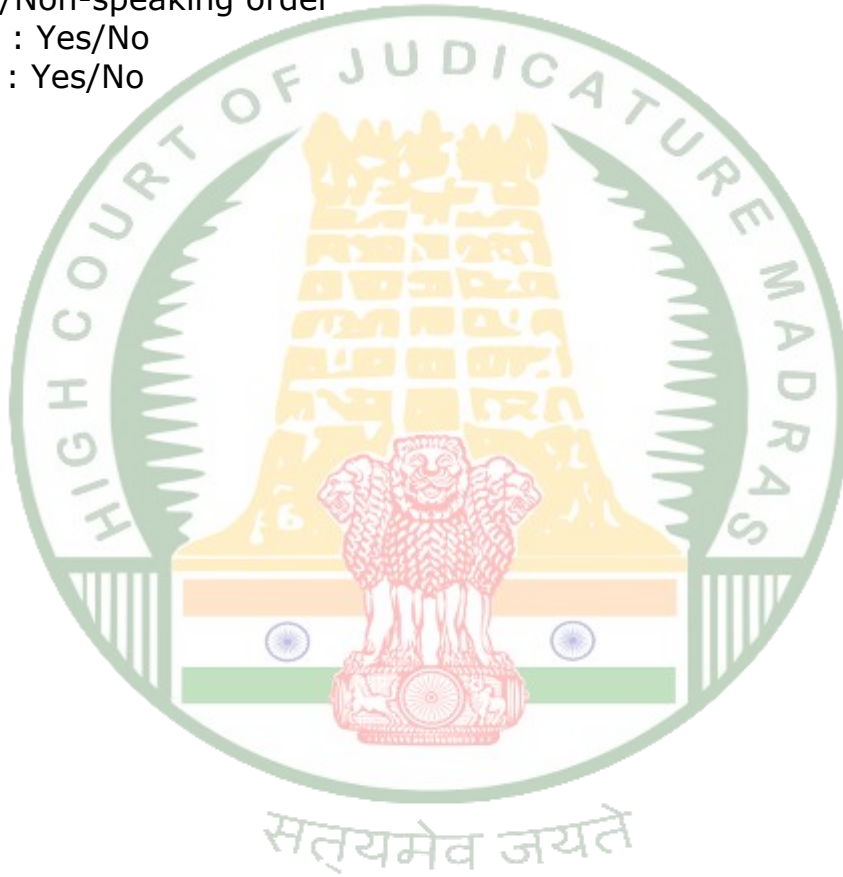
25.06.2021

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

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WEB COPY

To

- 1.The II Additional Subordinate Judge,
Coimbatore
- 2.The II Additional District Munsif,
Coimbatore.



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G.K.ILANTHIRAIYAN,J.

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