

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.01.2021

CORAM

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

C.R.P.(PD) No.1954 of 2017
and C.M.P.No.9493 of 2017

1. S.Kanagalakshmi
2. S.Meenakumari

... Petitioners

Vs.

1. S.Senthilkumar
2. The Sub Registrar,
Gandhipuram Sub Registrar Office,
Coimbatore.

... Respondents

Prayer :- Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 16.03.2017 made in I.A.No.275 of 2017 in O.S.No.321 of 2015 on the file of the IV Additional District Munsif Court, Coimbatore.

For Petitioners : Mr.N.Manokaran

For Respondents

For R1 : No appearance

For R2 : Mr.T.M.Pappiah

Special Government Pleader.

ORDER

This revision petition is arising out of the fair and decreetal order dated 16.03.2017 passed by the learned IV Additional District Munsif, Coimbatore, in I.A.No.275 of 2017 in O.S.No.321 of 2015, thereby allowing the petition to amend the plaint filed by the respondent/plaintiff.

2. The petitioners are the defendants in the suit filed by the first respondent. The suit is for direction directing the petitioners/defendants to execute rectification deed as detailed in the schedule. While pending the suit, the first respondent/plaintiff filed an application in I.A.No.275 of 2017 for amendment to include the over head water tank in the schedule of property.

3. On perusal of the plaint as well as the petition to amend the plaint, it revealed that the petitioners and the first respondent are sisters and brother. In respect of their family properties they entered into a partition deed. According to the partition deed, the first respondent has right and enjoyment over the over head water tank as he constructed the said over

head water tank by spending expenses out of the income derived from the family properties. Whereas the partition deed stated that the right to reach the over head tank only to the petitioners/defendants. Therefore, the trial Court allowed the petition filed to amend the plaint to include the said over head water tank.

4. It is curious to note that the suit itself filed for execution of rectification deed with regard to right in the over head water tank. Whereas on perusal of schedule properties in the plaint shows that it does not speak about the said over head water tank. Therefore, the first respondent/plaintiff filed the above said petition for amendment of suit schedule property. That apart it would not change the nature of the suit and also cause of auction in the suit. Therefore, the trial Court rightly allowed the petition filed by the first respondent/plaintiff and this Court finds no illegality and infirmity in the order passed by the Court below.

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5. Accordingly, this Civil Revision Petition stands dismissed.

There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

07.01.2021

Internet : Yes

Index : Yes/No

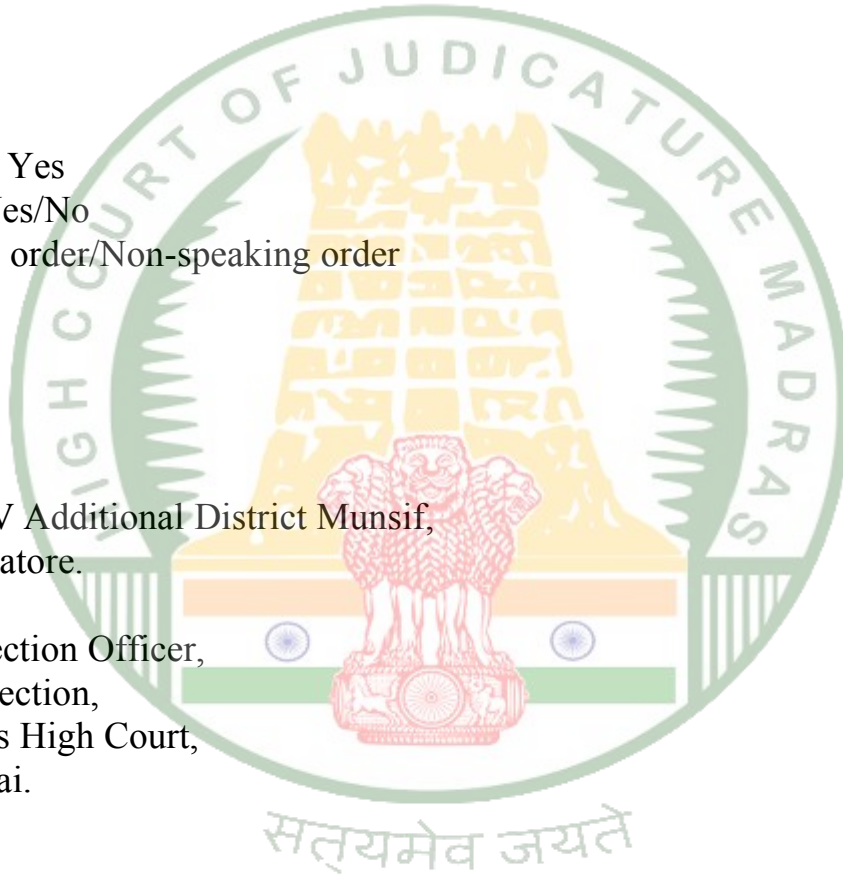
Speaking order/Non-speaking order

rts

To

1. The IV Additional District Munsif,
Coimbatore.

2. The Section Officer,
V.R. Section,
Madras High Court,
Chennai.

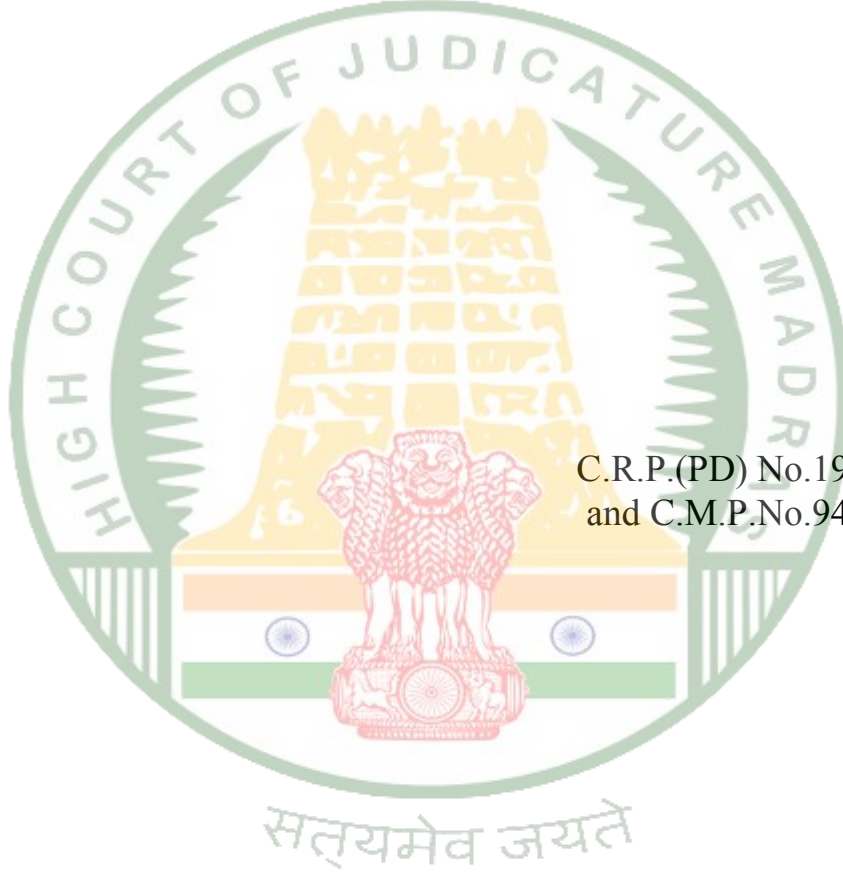


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