

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.07.2021

CORAM

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

C.R.P.(PD) No.3762 of 2018
and
C.M.P.No.20968 of 2018

Martin Selvam

... Petitioner

Vs

Jerome Royappan

... Respondent

Prayer :- Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 23.07.2018 made in I.A.No.206 of 2018 in O.S.No.36 of 2013 pending on the file of the District Munsif cum Judicial Magistrate, Nannilam.

For Petitioner : Mr.George Graham
for M/s.Devadason and Sagar
For Respondent : Mr.T.Senthilkumar for
Mr.M.Sivavarthan

ORDER

This Civil Revision Petition is filed against the fair and decreetal order dated 23.07.2018 made in I.A.No.206 of 2018 in O.S.No.36 of 2013 pending on the file of the District Munsif cum Judicial Magistrate, Nannilam, thereby dismissing the petition to re-call P.W.1.

2. The revision petitioner is the defendant and the respondent is the plaintiff. The respondent filed a suit in O.S.No.36 of 2013 for bare injunction in respect of the suit pr-operty. During the trial, P.W.1 was examined and after closing the evidence of plaintiff side, the petitioner filed a petition in I.A.No.206 of 2018, to re-call P.W.1 to mark the complaint lodged by him on the file of the District Crime Branch, Thiruvavarur.

3. A perusal of the affidavit filed in support of the petition to re-call P.W.1 reveals that the respondent lodged a complaint on 10.11.2011 before the District Crime Branch, Thiruvavarur and the same was forwarded to the Inspector of Police, Anti Land Grabbing Special Cell, Thiruvavarur District. The said complaint was obtained by the petitioner through Right to Information Act on 27.06.2018. Therefore, the complaint is a vital document to be marked through P.W.1. Without considering the above, the Court below dismissed the petition for the reason that the petitioner drag on the proceedings for several occasions. In fact, he took time on 19 occasions to cross-examine the P.W.1 and finally he completed the cross-examination on 26.03.2018. When the suit was posted for defendant side evidence on 11.04.2018, the present application has been filed. As same like the respondent, the petitioner also filed a suit in O.S.No.68 of 2012 for bare injunction as against the respondent and the joint

trial was ordered in respect of the present suit as well as the suit filed by the petitioner herein.

4. Considering the above, the order dated 23.07.2018 made in I.A.No.206 of 2018 in O.S.No.36 of 2013 on the file of the District Munsif cum Judicial Magistrate, Nannilam is hereby set aside and if the petitioner fails to cross-examine the P.W.1 on the date fixed by the Trial Court, the Trial Court is directed to proceed with the suit on merits and in accordance with law. The Trial Court is directed to dispose of the suit with a period of six months from the date of receipt of a copy of this order.

5. With the above directions, the Civil Revision Petition is allowed. Consequently, connected Miscellaneous Petition is closed. No order as to costs.

09.07.2021

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Index: Yes/No

Internet: Yes/No

Speaking Order: Yes/No

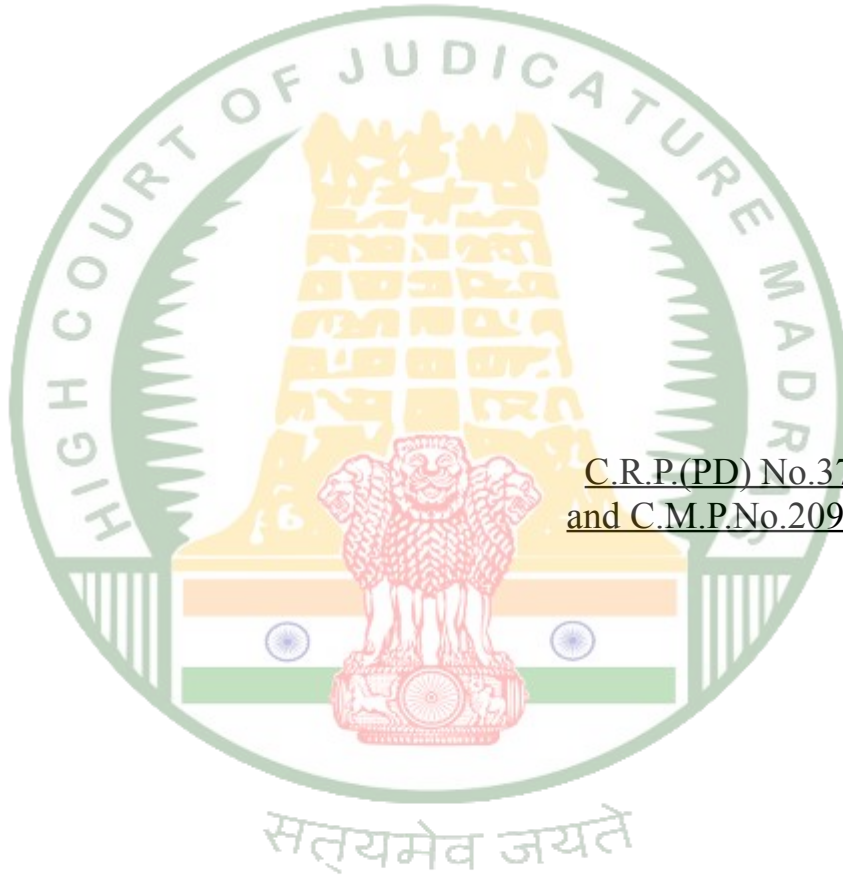
To

The District Munsif cum Judicial Magistrate,
Nannilam.

C.R.P.(P.D).No.3762 of 2018

G.K.ILANTHIRAIYAN, J.

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