

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2021

CORAM

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

C.R.P.(PD)No.3241 of 2018
and C.M.P.No.18455 of 2018

M.P.Rabindranath

... Petitioner

Vs.

L.B.Chandran

... Respondent

Prayer :- Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 29.06.2018 made in I.A.No.15217 of 2017 in O.S.No.1348 of 2017 on the file of the learned VIII Assistant Judge, City Civil Court, Chennai.

For Petitioner : Mr.B.Jawahar

For Respondent : Not ready in notice

ORDER

This Civil Revision Petition is directed as against the fair and decreetal order dated 29.06.2018 passed by the learned VIII Assistant Judge, City Civil Court, Chennai, in I.A.No.15217 of 2017 in O.S.No.1348 of 2017, thereby dismissing the petition for rejection of

plaint.

2. The petitioner is the defendant and the respondent is the plaintiff. The respondent filed suit in O.S.No.1348 of 2017 for damages. While pending the suit, the petitioner filed petition in I.A.No.15217 of 2017 to reject the plaint. The trial Court dismissed the said petition as against which, the present Civil Revision Petition.

3. The case of the respondent is that on 12.12.2016, the branches of mango tree overhanging on his terrace had snapped and portions of the concrete roof in the bedroom on the western side of his flat had fallen down and it caused damages to the tune of Rs.40,000/-. Further the case of the respondent is that it was caused due to Vardah cyclone and even before that the government informed to all the general public that Vardah cyclone was going to hit the city of Chennai on 11th and 12th of December, 2016. Immediately, the respondent met the petitioner and warned him to trim the branches overhanging on his flat. Even then, the petitioner did not take any steps to trim the branches of

the mango tree. Hence, the respondent filed the present suit.

4. The learned counsel appearing for the petitioner would submit that it is an act of God and no one is responsible for the damages caused to the respondent's house. That apart, there is no cause of action to file the present suit. Without considering the same the Court below dismissed the petition filed by the petitioner to reject the plaint and the suit itself if not maintainable. Therefore, he prayed to allow this Civil Revision Petition.

5. It is seen that due to Vardah cyclone, the branch of the mango tree owned by the petitioner herein had snapped and caused damages to the respondent's house. Therefore, the respondent filed the present suit for damages. Though the damages caused due to Vardah cyclone, the plaint cannot be rejected on that ground. It can be a defense for the petitioner to defend the suit. Therefore, the Court below rightly dismissed the petition and this Court finds no infirmity or illegality in the order passed by the Court below. Since the suit is of the year 2017, the

trial Court is directed to dispose the suit within a period of six months from the date of the receipt of a copy of this Order.

6. Accordingly, the Civil Revision Petition stands dismissed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

29.07.2021

Internet : Yes

Index : Yes/No

Speaking order/Non-speaking order

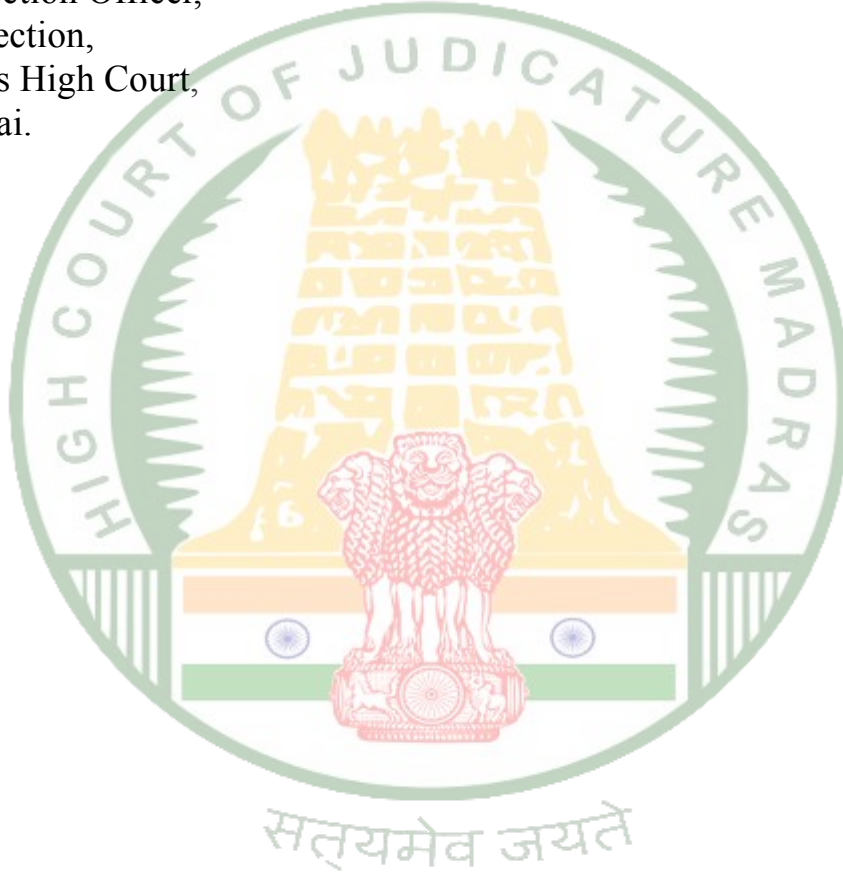
rts



WEB COPY

To

1. The VIII Assistant Judge,
City Civil Court, Chennai.
2. The Section Officer,
V.R. Section,
Madras High Court,
Chennai.

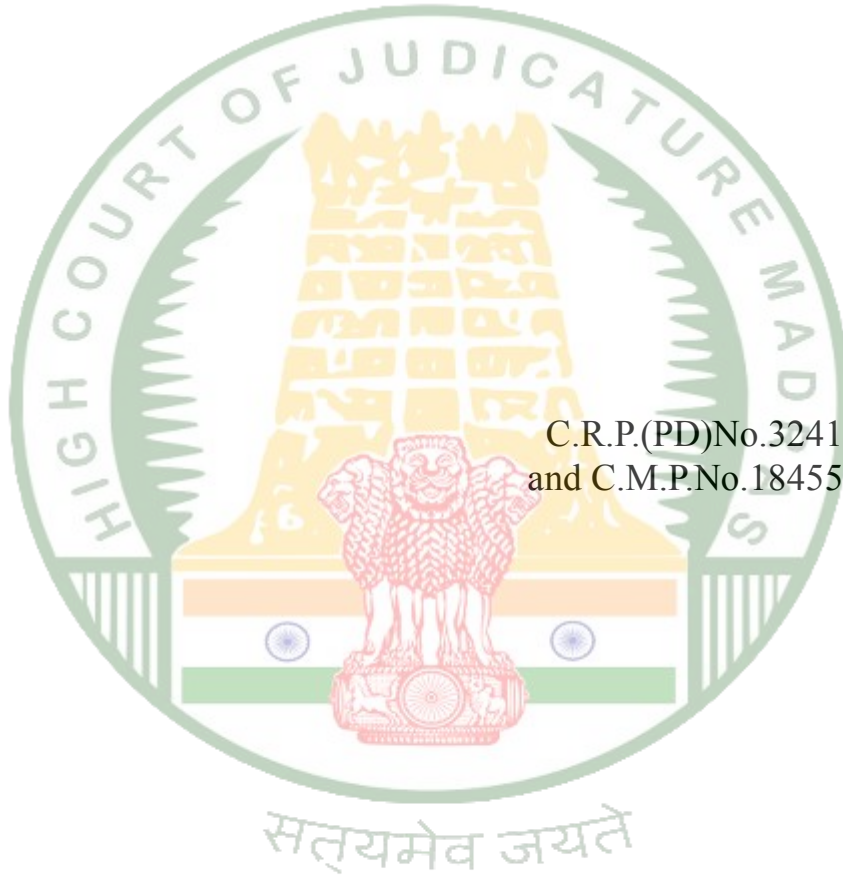


WEB COPY

C.R.P.(PD)No.3241 of 2018

G.K.ILANTHIRAIYAN, J.

rts



C.R.P.(PD)No.3241 of 2018
and C.M.P.No.18455 of 2018

WEB COPY

29.07.2021