

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 14.12.2015

CORAM

THE HONOURABLE MS. JUSTICE R.MALA

C.R.P.(PD).No.4768 of 2014
& M.P.No.1 of 2014

N.Shanmugam .. Petitioner / Defendant

Versus

Palaniammal @ Palanathan .. Respondent / Plaintiff

Prayer: Civil Revision Petition is filed under Article 227 of Constitution of India, to direct the trial Court to number the I.A.C.F.R.No.2855 of 2014 in O.S.No.63 of 2008 pending before the District Munsif Court, Avinashi and dispose the same.

For Petitioner : Mr.M.Easan

For Respondent : Mr.K.Goviganesan

ORDER

The Civil Revision Petition is filed directing the trial Court to number I.A.C.F.R.No.2855 of 2014 in O.S.No.63 of 2008 pending on the file of the District Munsif Court, Avinashi.

2.Learned counsel appearing for the petitioner submitted that the respondent as the plaintiff filed a suit in O.S.No.63 of 2008 for declaration that the plaintiff is the absolute owner of the suit property and for consequential permanent injunction. In that suit, ex parte decree was passed on 09.01.2013. Hence, the defendant / revision petitioner filed I.A.No.200 of 2013 for setting aside the ex parte order, which was considered by the trial Court and that I.A.No.200 of 2013 was allowed on 02.02.2013 on payment of cost of Rs.250/- to the plaintiff / respondent. Memo has been filed by the plaintiff / respondent stating that the cost has not been paid and hence, the defendant / revision petitioner was set ex parte on 11.02.2013. When P.W.1's cross-examination was closed and it was adjourned to 14.12.2014. At that time, the defendant / revision petitioner filed I.A.C.F.R.No.2855 of 2014 for setting aside the ex parte order dated 11.02.2013, which was returned, against which, the present revision has been filed. Learned counsel appearing for the petitioner further submitted that a direction may be given to the Trial Court to number the application and dispose of the same, within a time stipulated by this Court.

3.Learned counsel appearing for the respondent submitted that instead of filing the petition for extension of time for payment, he filed this application. He further submitted that no final order has been passed, so the revision itself is not maintainable.

4.Considering the submissions made on both sides and on perusal of the typed set of papers, because of non appearance, the exparte order has been passed. To set aside the exparte order, the revision petitioner/defendant filed I.A.No.200 of 2013, which was allowed on condition that the defendant / revision petitioner has to pay a sum of Rs.250/- as cost to the plaintiff / respondent. But admittedly the conditional order has not been complied with and hence, it was returned. Without complying with the orders passed by the trial Court, the revision petitioner / defendant has filed yet another application for setting aside the exparte order, which is against law. In such circumstances, I am of the view that the revision petitioner is not entitled to any relief.

5.In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

14.12.2015

Index : Yes / No
Internet : Yes / No
sri

To

The District Munsif Court, Avinashi.

R.MALA,J.

sri

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