

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2015

CORAM:

THE HON'BLE **MS. JUSTICE R.MALA**

C.R.P.(PD).No.3114 of 2015

and

M.P.No.1 of 2015

Shanmuga Vadivu
W/o.Santhakumar

.. Petitioner/Defendant 2/Petitioner

Vs.

P.Saravana Balaji
S/o.Ponnusamy

.. Respondent/Plaintiff/Respondent

Prayer:

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 18.06.2015 passed in I.A.No.154 of 2015 in O.S.No.93 of 2015 on the file of the Principal District Court, Coimbatore.

For Petitioner : Mrs.Hema Sampath,
Senior Counsel
for Ms.R.Meenal

For Respondent : Mr.B.Kumarasamy
for Mr.P.Kannan Kumar

ORDER

Heard the learned Senior Counsel appearing for the petitioner and the learned counsel appearing for the respondent.

2. Challenging the dismissal of the application filed under Order 7 Rule 11 CPC in I.A.No.154 of 2015, the learned Senior Counsel appearing for the petitioner would submit that the suit itself is not maintainable and it is barred by law viz., hit by the provisions of the Benami Transaction (Prohibition) Act, 1988. But at the time of argument, the learned counsels appearing on either sides fairly conceded that the suit is in the part heard stage and the matter is posted on 06.11.2015, for evidence on the side of the defendant. Hence, the question as to whether the suit is barred by law viz., hit by the provisions of the Benami Transaction (Prohibition) Act, 1988 has to be decided only at the time of trial.

3. However, the learned Senior Counsel appearing for the petitioner requested for earlier disposal of the suit, with a further request to decide the issue as to whether the sale deeds mentioned in paragraph 5 of the plaint is hit by the provisions of the Benami Transaction (Prohibition) Act as one of the issues.

4. Recording the said submission made by the learned Senior counsel appearing for the revision petitioner, the present Civil Revision Petition is dismissed, however with a direction to the learned Principal District Judge, Coimbatore to decide the issue as to whether the sale deeds mentioned in paragraph 5 of the plaint is hit by the provision of the Benami Transaction (Prohibition) Act, along with the other issues and to dispose of the suit in O.S.No.93 of 2015 within a period of one month from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed. No costs.

04.11.2015

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Note : Issue order copy on 06.11.2015

Index : Yes / No

Internet : Yes / No

To

The Principal District Court,
Coimbatore.

R.MALA, J.

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