



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 05.02.2015
CORAM

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

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C.R.P. (PD) (MD) No.86 of 2015
and
M.P. (MD) No.1 of 2015

G.Pethanasamy .. Petitioner/1st Petitioner/1st Defendant

Vs.

1. G.Muthumari .. 1st Respondent/Respondent/Plaintiff

2. Chandragandhi

3. The State represented by
its District Collector,
Theni District, Theni.

4. The District Registrar,
Office of the District Registrar,
Periyakulam,
Theni District.

5. The Sub Registrar,
Office of the Sub Registrar,
Theni ... Respondents 2 to 5/ Petitioners 2 to 5/
Defendants 2 to 5

Prayer: Petition is filed under Article 227 of the Constitution of India to set aside the petitioner and order passed in I.A.No.430 of 2014 in O.S.No.111 of 2013 on the file of the District Munsif Court, Theni, dated 28.08.2014.

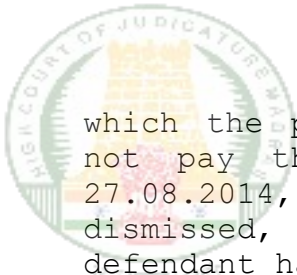
For Petitioner : Mr.V.P.Rajan
For Respondents : Mr.V.Sitharanjandas for R.1

ORDER

This Civil Revision Petition is filed against the order passed in I.A.No.430 of 2014 in O.S.No.111 of 2013 on the file of the District Munsif Court, Theni.

2. By consent, the Civil Revision Petition is taken up for final disposal at the admission stage itself. Heard the learned Counsel for the petitioner and the learned Counsel for the first respondent.

3. In a suit for declaration and injunction filed by the plaintiff, after the evidence is over and posted for arguments, the first defendant has come up with an application to reopen the case to mark certain documents, which were marked in the earlier suit in O.S.No.109 of 2001. Though it was objected by the plaintiff, the learned District Munsif, Theni allowed the same on payment of Rs.1,000/- to the plaintiff. The said amount was directed to be paid on or before 27.08.2014, failing



which the petition shall stand dismissed. As the petitioner herein did not pay the costs of Rs.1,000/- within the stipulated time, viz., 27.08.2014, the matter was called on 28.08.2014 and the same was dismissed, as no costs was paid. Aggrieved by the same, the first defendant has come forward with this Civil Revision Petition.

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4. Though the learned Counsel for the first respondent vehemently opposed for allowing the Civil Revision Petition, as already an opportunity was given to the first defendant, it was only in default of the non-payment of the costs, subsequently it was dismissed. So far as Order 18 Rule 17 of the Code of Civil Procedure is concerned, if any such application is allowed, the other side has to be compensated. Accordingly, for the fault of the defendants, the plaintiff should not be made to suffer. Hence this Court feels that, the Civil Revision Petition may be allowed on terms.

5. Accordingly, the petitioner is directed to pay a sum of Rs.5,000/- (Rupees Five Thousand Only) to the respondent as costs within a period of four weeks from the date of receipt of a copy of this order, failing which the order in this Civil Revision Petition shall stand automatically be vacated, without further reference to this Court.

6. With the above observations, the Civil Revision Petition is disposed of. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(Writs)

\\True copy\\

Sub Assistant Registrar

To

The District Munsif Court, Theni

+1cc to MR.V.P.RAJAN, ADVOCATE SR.NO.5356

+1cc to MR.V.SITHARANJANDAS, ADVOCATE SR.NO.5274

C.R.P. (PD) No.86 of 2015
and
M.P. (MD) No.1 of 2015
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