

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **21.09.2016**

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

C.R.P.(P.D.) No.1928 of 2016

Indirani

...Petitioner

versus

1.Vimaladevi

2.Rajendran

...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order in I.A.No.165 of 2015 in O.S.No.9 of 2012 dated 05.02.2016 on the file of the Principal District Court at Thiruvavarur.

For Petitioner : Mr.P.B.Balaji

For Respondent : Mr.Sadasivan

ORDER

The petitioner filed an application before the Trial Court to implead her as a party to the suit in O.S.No.9 of 2012. The learned Judge on the basis of a letter sent in the name of the petitioner to the Court observed that the petition was not filed by her. Thereafter, the matter was decided on merits. Feeling aggrieved, the petitioner is before this Court.

2. Heard the learned counsel for the petitioner and the learned counsel appearing on behalf of the respondents.

3. The petitioner filed an application in I.A.No.165 of 2015 to implead her as a party to the suit. The order passed by the learned Judge shows that a letter was received by the Court from the petitioner indicating that she has not filed the petition. The Court made an observation that the impleading petition was not filed by the petitioner herein. Thereafter, the Court arrived at a finding that the petitioner was not a necessary party for an effective adjudication of the matter.

4. When there is a finding that the petition was not filed by the revision petitioner, there is no question of passing an order on merits. The proper course available to the Court was to direct the petitioner to appear in person and thereafter, decide the matter on merits. However, such a course was not adopted by the learned Judge. I am therefore of the view that the matter requires fresh consideration by the learned Judge.

5. The learned Trial Judge is directed to pass an order directing the appearance of the petitioner on a particular date to confirm as to

whether she has filed the petition. In case, the petitioner states that she has filed the petition, necessarily, the application shall be decided on merits with due opportunity to both sides to make submissions.

6. The Civil Revision Petition is allowed. The impugned order is set aside and the matter is remitted to the Trial Court with the above direction. No costs.

7. Since the suit is of the year 2012, every effort should be taken by the learned Trial Judge to dispose of the matter as expeditiously as possible, and in any case, on or before 31 March 2017.

21.09.2016

Index : Yes/No

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To

The Principal District Court at Thiruvavur.

K.K.SASIDHARAN, J.

(svki)

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