

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.11.2016

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN

CRP(PD)No.2699 of 2016

1. Sathi Devi

2. C.A.Rajendran

... Petitioners

Versus

T.Iyyapa Raj

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India, against the docket order dated 26.02.2013 passed in I.A.No.3169 of 2013 in O.S.No.1184 of 2013 pending on the file of V Assistant City Civil Court, Chennai.

For Petitioners : Mr.B.Vijay

For Respondent : Mr.R.Gunasekaran

ORDER

The respondent filed a suit in O.S.No.1184 of 2013 before the V Assistant Civil Civil Court, Chennai. The respondent, along with the said suit, filed an application in I.A.No.3169 of 2013 to grant him leave to file a suit for specific performance at a subsequent point of time. The trial Court passed a very brief order and permitted him to file the suit. Feeling aggrieved, the petitioners are before this Court.

2. The learned counsel for the petitioners contended that the trial Court was expected to consider the question as to whether such a leave should be

granted without filling a suit for specific performance. The learned counsel further contended that till date, no suit for specific performance has been filed by the respondent. According to the learned counsel, the trial Court erred in granting leave to file.

3. The learned counsel for the respondent justified the order passed by the Trial Court.

4. The respondent filed an application invoking order 2 Rule 11 of C.P.C. to grant him leave to file a suit for specific performance at a later point of time. The trial Court was expected to consider the application on merits. Unfortunately, the Trial Court just passed a one line order, "permitted". The trial Court, instead of passing an order on merits, just allowed the application without supplementing the reasons. The impugned order is therefore liable to be set aside.

5. The order dated 26.02.2013 is set aside. The learned Trial Judge is directed to consider the application afresh.

6. The Civil Revision is allowed with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

04.11.2016

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To

1. The V Assistant City Civil Court,
Chennai.

K.K.SASIDHARAN, J.

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