

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.04.2016

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

CRP (PD)No.3402 of 2010

and

M.P. No.1 of 2010

G.Sundarambal

.. Petitioner

Vs

1.D.Suresh

2.D.Parvatham

3.Duraisamy

4.V.S.Gothandaramasamy

5.Sasikumar

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decretal order dated 10.08.2010 made in I.A.No.705 of of 2010 in O.S.No.19 of 2005 on the file of the Principal Subordinate Court, Erode.

For Petitioner : Mr.R.Marudhachalamurthy

For 3rd respondent : Mr.P.Muthukumarasamy

For R1, R2, R4 & R5 : No appearance

ORDER

This Civil Revision Petition arises against the fair and final order dated 10.08.2010 passed in I.A.No.705 of 2010 in O.S.No.19 of 2005 on the file of the Principal Subordinate Court, Erode.

2. The revision petitioner is the plaintiff in O.S.No.19 of 2005 on the file of the Principal Subordinate Court, Erode. He filed a suit for partition and separate possession of the suit schedule mentioned property.

3. The first respondent herein, D.Suresh, filed an Interlocutory Application in I.A.No.705 of 2010 in O.S.No.19 of 2005 before the Principal Subordinate Court, Erode, to implead him as the 5th defendant in O.S.No.19 of 2005 and the aforesaid Interlocutory Application was allowed by the Trial Court.

4. Aggrieved by the same, the present Civil Revision Petition has been filed by the petitioner/plaintiff on the following grounds:-

(i) Without appreciating the case of the Civil Revision Petitioner, the learned Subordinate Judge, Erode, has allowed the Interlocutory Application sought for impleadment of the first respondent

herein as a party in the suit.

(ii) The learned Subordinate Judge, Erode, has erroneously allowed the application on the ground of non-appearance of the revision petitioner/plaintiff and respondents 2 to 5/defendants 2 to 4 herein in the Interlocutory Application.

5. The learned counsel for the petitioner has submitted that while allowing the interlocutory application, the learned Sub Judge, Erode, passed a non-speaking order without assigning any reasons. The learned Principal Subordinate Judge has failed to afford an opportunity of hearing to the respondents therein/petitioners herein and therefore, the impugned order is liable to be set aside and Civil Revision Petition has to be allowed.

6. Though the respondents 1, 2, 4 and 5 were served and their names were printed in the cause list, there is no representation for respondents 1, 2, 4 and 5.

7. It is the submission of the learned counsel for the third respondent that the third respondent is only a formal party in the case and the revision petitioner claims no relief as against the third respondent.

8. Perused the order impugned in this Civil Revision Petition. It is a non-speaking order and no reasons were assigned in the order. In law, the trial Court's order must be a reasoned and speaking one. It is needless to state that an unreasoned order may be just, but may not appear to be sound to the individual affected. Per contra, a reasoned order will have the appearance of justice. In order to prevent aberration of justice, the impugned order is liable to be set aside in the eye of law. Therefore, the fair and final order passed by the Court below is liable to be set aside.

9. In view of the above circumstances, this Court is constrained to pass the following order:

(i) The impugned order in I.A.No.705 of 2010 in O.S.No.19 of 2005 on the file of the Principal Sub Court, Erode is hereby set aside.

(ii) The learned Sub Judge, Erode is directed to pass appropriate orders in I.A.No.705 of 2010 in O.S.No.19 of 2005 on merits and in accordance with law after hearing the revision petitioner and others if any, within a period of two months from the date of receipt of a copy of this order.

9. Accordingly, the Civil Revision Petition is disposed of. No costs.

Consequently, connected Miscellaneous Petition is closed.

Index : Yes/No
Internet : Yes/No
kkd/asvm

12.04.2016

To

The Principal Subordinate Judge
Erode.

D.KRISHNAKUMAR,J

kkd/asvm

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