

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.12.2016

CORAM

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

C.R.P.(PD)No.2566 of 2012

and

M.P.No.1 of 2012

T.Krishnaraj

.. Petitioner

Vs.

1.Tirupathy

2.T.Kandasamy

3.T.Murugesan

4.T.Kolandavel

5.Krishnaveni

6.Saraswathi

7.Dhanakodi

8.Shanmugavelli

9.Sundarammal

.. Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, against Fair and Decretal Order dated 30.03.2011 passed in I.A.No.134 of 2010 in O.S.No.975 of 2009, on the file of the District Munsif, Salem whereby dismissing the I.A. filed for amend the plaint.

For Petitioner : Mr.C.Prakasam

For Respondents : No Appearance

ORDER

On mistaken advice this Civil Revision Petition has been filed, challenging the order in I.A.No.134 of 2010 in O.S.No.975 of 2009 dated 30.03.2011, on the file of the Principal District Court at Salem, since the petitioner has filed the application in I.A.No.134 of 2010 for Amendment of Plaint filed under Order VI Rule 17 of CPC, and the said application was allowed by the learned Judge on condition that the petitioner/plaintiff should pay a sum of Rs.5,000/- to the respondents/defendants on or before 07.04.2011.

2.When the above matter came for admission, on 24.09.2012 this Court ordered notice to the respondents returnable by 05.10.2012 and the notices were sent and the same was served on the respondents, but none appeared before this Court. When this matter has been taken up today, no one appeared for the respondents, but their names were printed in the cause list.

3. When this Court has pointed out the mistaken filing of the Civil Revision Petition, Mr.C.Prakasam, learned counsel appearing for the petitioner has pointed out that he challenged only the cost portion in the I.A.No.134 of 2010, but the prayer in the Civil Revision Petition is to quash the entire order in I.A.No.134 of 2010 in O.S.No.975 of 2009 dated 30.03.2011. Even otherwise, if challenge in the Civil Revision Petition made only in respect of cost portion, this Court has not inclined to interfering with the order passed by the learned District Munsif, Salem in I.A.No.134 of 2010 dated 30.03.2011 and accordingly the Civil Revision Petition ought to be dismissed. But, the learned counsel appearing for the petitioner is requested to permit the petitioner to pay the cost as ordered in the above I.A.No.134 of 2010, since the order was passed on 30.03.2011 and the learned District Munsif directed him to pay the cost on or before 07.04.2011 and the time limit was also over.

4. Though this Court is not inclined to interfere with the order of the learned District Munsif but the request made by the learned counsel appearing for the petitioner is accepted and this Civil Revision Petition was admitted in the year 2012 and it is pending for more than 4 years unnecessarily.

5. Therefore, in the interest of justice, I am inclined to pass the following orders:

(a) this civil revision petition is dismissed by confirming the order in I.A.No.134 of 2010 in O.S.No.975 of 2009 dated 30.03.2011 passed by the Principal District Munsif, Salem.

(b) the petitioner/plaintiff is permitted to pay the cost as ordered in the I.A.No.134 of 2010 within a period of two weeks from the date of receipt of a copy of this order.

(c) on payment of the cost by the petitioner, the trial Court is directed to dispose the suit in O.S.No.975 of 2009, after carried out the amendment and filing of additional written statement if any, within a period of 3 months thereafter without giving adjournments on either parties and both the parties are hereby directed to give their fullest co-operation for the disposal of the suit.

6. Accordingly, this Civil Revision Petition is dismissed. No costs.
Consequently, connected miscellaneous petition is closed.

16.12.2016

Note: Issue order copy on 21.12.2016.

vs

Index: Yes/No

Internet: Yes/No

To

The District Munsif,
Salem.

M.V.MURALIDARAN, J.

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