

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.03.2016

CORAM

THE HONOURABLE Dr.JUSTICE S.VIMALA

CRP (NPD) No.631 of 2016

A.Rajendran,
S/o.Ranganathan
3/231, D.S.G.Nagar,
3rd Street, Palavakkam,
Chennai – 600 041.

.. Petitioner

Vs

R.Saraswathy
No.49, Anna Colony 3rd Street,
Besant Nagar,
Chennai – 600 090.

.. Respondent

Prayer:- Civil Revision Petition filed under Section 115 of Civil Procedure Code praying to set aside the order dated 01.10.2015 made in C.M.P.No.1076 of 2015 in A.S.No.460 of 2013 on the file of the VII Additional City Civil Court, Chennai and allow the Civil Revision Petition.

For Petitioner

:Mr.A.S.Narasimhan

ORDER

“Operation success but patient died” this saying applies to this case also, as the plaintiff was not able to get his own money returned, despite the opponent saying no objection for the plaintiff to get it returned.

1.1. The plaintiff has been driven to file this unwanted revision petition, because of lack of management skills on the part of the lower Court i.e., lack of case management and record management.

2. This Civil Revision Petition has been filed praying to set aside the order dated 01.10.2015 made in C.M.P.No.1076 of 2015 in A.S.No.460 of 2013 on the file of the VII Additional City Civil Court, Chennai.

3. The revision petitioner as plaintiff has filed a suit in O.S.No.10501 of 2010 on the file of VI Assistant City Civil Court, Chennai, for recovery of possession of the suit property on payment of Rs.3,20,000/-. The trial Court has dismissed the suit on 07.10.2013. Thereafter, the plaintiff has filed an Appeal in A.S.No.460 of 2013 on the file of VII Additional Sessions Court, Chennai. The Appellate Court allowed the said appeal, subject to the condition that the appellant/plaintiff will deposit a sum of Rs.3,20,000/- within one month from the date of decree. Accordingly, the appellant/plaintiff has deposited the said amount to the credit of the above suit.

3.1. Thereafter, Second Appeal in S.A.No.1085 of 2014 has been preferred by the defendant/respondent.

4. Because of the pendency of the Second Appeal before this Court for a long number of years, the plaintiff wanted the Court below to return the said amount. In this regard, the plaintiff filed a petition in C.M.P.No.1076 of 2015 in A.S.No.460 of 2013 before the VII Additional Sessions Court, City Civil Court, Chennai.

5.The defendant/respondent has made an endorsement before the Court below that she has no objection in allowing the petition. Despite the endorsement of no objection made by the defendant/respondent, the Court below has chosen to dismiss the petition on the ground that the Court below has not got any opportunity to verify the records, since the records are available on the file of this Court for reference to S.A.No.1085 of 2014.

5.1. The Court below should have called for records from the file of this Court for the limited purpose of finding out, whether the details in the affidavit filed in support of the C.M.P., is correct or not, instead, the Court below has dismissed the petition. Challenging the same, this revision petition has been filed.

7. The learned counsel for the revision petitioner would submit that already the amount in deposit does not earn any

interest and the plaintiff has suffered a lot, and an order should be passed by this Court forthwith, permitting withdrawal of the amount.

8. The only point to be decided is, whether the order passed in CMP.No.1076 of 2015 in A.S.No.460 of 2013, dismissing the petition is correct or not. This could be decided subject to verification of the details furnished in CMP.No.1076 of 2015 in A.S.No.460 of 2013. Therefore, on 02.03.2016, the Deputy Registrar (Judicial) was directed to verify whether the details as furnished in CMP.No.1076 of 2015 in A.S.No.460 of 2013 is correct, by comparing it with the details on record (in S.A.No.1085 of 2014) and to submit a report forthwith.

8.1. The matter was directed to be listed on the next date. On 03.3.2016, the Deputy Registrar (Judicial) verified the records and after comparing the details as furnished in CMP.No.1076 of 2015 in A.S.No.460 of 2013 with the records in S.A. No.1085 of 2014, gave a report certifying the correctness of the details furnished in CMP.No.1076 of 2015 in A.S.No.460 of 2013.

9. Under such circumstances, the order dated 01.10.2015 passed in C.M.P.No.1076 of 2015 in A.S.No.460 of 2013 on the file

of the VII Additional City Civil Court, Chennai is hereby set aside and the revision petition is allowed. The Court below is directed to return the said amount of Rs.3,20,000/- lying to the credit of the suit in O.S.No.10501 of 2010 on the file of VI Assistant City Civil Court, Chennai to the revision petitioner/plaintiff. The petition in CMP.No.1076 of 2015 in A.S.No.460 of 2013 is allowed accordingly. No costs.

10. Before parting with this case, it is necessary to point out that had it been possible to have a digitalized records by scanning, classifying, cataloguing, barcoding and tagging through RFID and networking of all the Courts, it would have been simpler for the Judges to peruse the records without the necessity of calling for the same. Digitalization of the record is the need of the hour and desire of the litigants.

03.03.2016

ds

To:

1. The VII Additional City Civil Court,
Chennai.
- 2.The VI Assistant City Civil Court,
Chennai.

S.VIMALA,J.

ds

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