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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2016

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

CRP.No.85 of 2008

and

M.P. No.1 of 2008

S.Subramanian

.. Petitioner

Vs

The Madras Mutual Benefit
Permanent Fund Ltd.,
7, Irusappa Gramani Street,
Triplicane, Chennai 600 005.

.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the order and decreetal order dated 18.08.2007 in I.A.No.11324 of 2007 in O.S.No.7340 of 2006, on the file of the III Assistant City Civil Judge, Chennai.

For Petitioner : Mr.V.Subramani

For Respondent : No Appearance

O R D E R

This Civil Revision Petition is filed against the order and decreetal order dated 18.08.2007 in I.A.No.11324 of 2007 in O.S.No.7340 of 2006, on the file of the III Assistant City Civil Judge, Chennai.

2.The learned counsel appearing for the petitioner represented that O.S.No.7340 of 2006 has been filed by the revision petitioner for rendition of accounts and for redemption of the suit mortgage property.

3.The written statement was filed by the defendant / respondent herein.

4.The respondent herein / defendant filed I.A.No.11324 of 2007 in O.S.No.7340 of 2006 to grant stay of further proceedings in the suit in O.S.No.7340 of 2006 on the file of the III Assistant City Civil Judge, Chennai, pending disposal of the suit in C.S.No.107 of 2007, on the file of this Court under Section 10 of C.P.C. The said application was allowed for reasons stating that there shall be a multiplicity of interest, therefore, in the interest of justice, all further proceedings



of the suit in O.S.No.7340 of 2006 has been stayed till the disposal of the suit in C.S.No.107 of 2007, on the file of this Court.

5. Against the said order, the present civil revision petition has been filed before this Court. Today, the civil revision petition is taken up for final hearing. Docket order shows that originally notice was served to the respondent and again a fresh notice was also ordered by this Court to the respondent. It is found from the records that still the service is awaited against the respondent. At this stage, the learned counsel appearing for the petitioner herein submitted that the suit filed by the respondent herein in C.S.No.107 of 2007 before this Court was subsequently transferred and renumbered as O.S.No.13152 of 2010 on the file of the Additional District and Sessions Judge, Fast Track Court No.III, Chennai and the aforesaid suit was dismissed for default on 23.03.2011. As of now, no application has been filed to restore the said suit. Hence, the order passed in the aforesaid Interlocutory Application is liable to be set aside, as not maintainable, in view of the subsequent dismissal of C.S.No.107 of 2007 dated 23.03.2011. The certified copy of the decree has also been produced before this Court from which it is evident that C.S.No.107 of 2007 filed before this Court was subsequently transferred and renumbered as O.S.No.13152 of 2010, on the file of the Additional District and Sessions Court, Fast Track Court No.III, Chennai and the same was dismissed for default on 23.03.2011.

6. In such circumstances, the interim order passed by the trial Court in I.A.No.11324 of 2007 in O.S.No.7340 of 2006, on the file of the III Assistant City Civil Court, Chennai is hereby set aside and remanded to the trial Court to pass appropriate orders in I.A.No.11324 of 2007 in O.S.No.7340 of 2006 on the file of the City Civil Court, Chennai, within a period of 8 weeks from the date of receipt of a copy of this order, in accordance with law, after giving opportunity to the parties concerned.

7. Accordingly, the Civil Revision Petition is disposed of with the above observations. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

vs



To

The III Assistant City Civil Judge,
Chennai.

+1cc to Mr.V. Subramani, Advocate, S.R.No.26672

BVR (CO)
EU (15/06/2016)

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