

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.06.2016

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Civil Revision Petition (PD) No.3848 of 2012
and
M.P.No.1 of 2012

The Manager,
Central Bank of India,
Mogapair,
Chennai.

... Petitioner

vs

M/s.Krishna Traders
represented by its Proprietor,
T.V.Krishna Road,
residing at V.V.Giri Street,
D.M.Nagar,
Annanoor,
Chennai - 600 109.

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India against the order of learned XVI Assistant City Civil Judge, Chennai, passed in I.A.No.12170 of 2010 in O.S.No.2061 of 2010 on 09.03.2012.

For Petitioner : M/s.N.V.S. and Associates

For Respondent : No appearance

ORDER

Even though the respondent has been served and the name of the respondent appears in the cause list, the respondent has not chosen to appear before this Court either in person or through a pleader. Hence, the matter is decided on merits.

2. This revision arises against the order of learned XVI Assistant City Civil Judge, Chennai, passed in I.A.No.12170 of 2010 in O.S.No.2061 of 2010 on 09.03.2012.

3. Heard learned counsel for petitioner.

4. The reasoning of the Court in dismissing I.A.No.12170 of 2010 in O.S.No.2061 of 2010 totally is erroneous. A decision upholding a petition under Or.7 R.11 CPC would result in nipping unnecessary litigation at the bud. It would but be appropriate to take up an application under Or.7 R.11 CPC and decide the same on merits. Only in the event of dismissal of such petition, would be appropriate to proceed further.

For the aforesaid reasons, the Civil Revision Petition is allowed. The order of learned XVI Assistant City Civil Judge, Chennai, passed in I.A.No.12170 of 2010 in O.S.No.2061 of 2010 on 09.03.2012, is set aside. Learned XVI Assistant City Civil Judge, Chennai, is directed to take up I.A.No.12170 of 2010 in O.S.No.2061 of 2010 on file and decide the same on merits within a period of one month from the date of receipt of this order. No costs. Consequently, connected miscellaneous petition is closed.

29.06.2016

Index:yes/no
Internet:yes
gm

To

The XVI Assistant City Civil Judge,
Chennai.

C.T.SELVAM, J

gm

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