



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.11.2016

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

C.R.P. (MD) Nos. 2276 & 2277 of 2016
and

C.M.P. (MD) No.10493 of 2016

Shahul Hameed

.. Petitioner/Plaintiff
in both petitions

Vs.

1. Ameer (died)
2. Ram Kumar
3. Nuthhar Beevi
4. Niyas Beham
5. Shahul Hameethu
6. Meera
7. M.Syed Masuthu

.. Respondents/Defendants
in both petitions

COMMON PRAYER: Petitions filed under Article 227 of Constitution of India, to set aside the fair orders and decreetal orders passed in I.A.Nos.274 and 275 of 2016 in O.S.No.51 of 2001 on the file of the learned Additional Subordinate Judge, Thenkasi, Tirunelveli District, dated 17.10.2016 by allowing this Revision petition and issue appropriate orders as this Court may deem fit and proper under the circumstances of the case.

For Petitioner : Mr.VR.Shanmuganathan

For R-7 : Mr.H.Arumugham

C O M M O N O R D E R

Aggrieved over the orders passed by the learned Additional Subordinate Judge, Thenkasi, Tirunelveli District, in I.A.Nos.274 and 275 of 2016 in O.S.No.51 of 2001, dated 17.10.2016, these Civil Revision petitions have been filed.

2. According to the petitioner, the petitioner has filed a suit in O.S.No.51 of 2001 before the Additional Subordinate Court, Thenkasi, for specific performance. In the aforesaid suit, the petitioner filed the present application in I.A.No. 274 of 2016 under Order 6 Rule 17 and 18 r/w 151 of C.P.C., to amend the plaint by inserting the relief of mandatory injunction and also he filed the present application in I.A.No.275 of 2016 in the aforesaid suit under Section 151 of C.P.C., for reopening the case. The present applications were dismissed by the Court below. Hence, the petitioner has preferred the present Civil Revision petitions.



3. During the course of arguments, the learned counsel for the seventh respondent filed an affidavit before this Court. In the affidavit, in paragraph No.4, it has been stated that, in the event of granting the decree for specific performance and the petitioner/plaintiff filing an execution petition for recovery of possession, the seventh respondent would not claim any equity on the basis of construction and he would remove his superstructure, in the light of the decision reported in **2016 (4) CTC 163**.

4. Therefore, the learned counsel for the petitioner has accepted the undertaking affidavit filed before this Court. In view of the submissions made by the learned counsel for the petitioner as well as taking into consideration of the affidavit filed by the seventh respondent, the Civil Revision petitions are disposed of. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar(p&A)

/True Copy/

Sub Assistant Registrar

To
The Additional Subordinate Judge,
Thenkasi, Tirunelveli District.

+1 cc to Mr. VR.SHANMUGANATHAN, Advocate, Sr.No:70696

+1 cc to Mr. H.ARUMUGAM, Advocate, Sr.No:70425

pmu

MAS/SS2-KSM:19.01.2017: 2P/ 4C

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