

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.10.2017

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

C.R.P.(PD).No.157 of 2017
and
C.M.P.No.653 of 2017

Chandra Rajan .. Petitioner

Vs.

G.Ramasamy .. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the order passed in I.A.No.327 of 2015 in O.S.No.166 of 2011 on the file of the Sub-Judge, Pollachi, dated 07.12.2016 and to set aside the same.

For Petitioner : Mr. S.Gunalan

For Respondent : Mr.N.Manokaran

ORDER

The petitioner has filed this Civil Revision Petition to set aside the order dated 07.12.2016 passed in I.A.No.327 of 2015 in O.S.No.166 of 2011 on the file of the learned Sub-Judge, Pollachi.

2. The respondent has filed suit O.S.No.166 of 2011 for specific performance in the aforesaid suit.

3. When the matter is taken up for trial, the plaintiff side evidence was closed and the defendant side witness was examined. The respondent herein has filed the application in I.A.No.327 of 2015 under Section 45 of the Indian Evidence Act, and 151 CPC to send the documents for getting expert opinion, the said application was allowed. Challenging the said order passed by the court below, the revision petitioner has filed the present Civil Revision Petition before this Court.

4. According to the learned counsel for the petitioner, the petitioner has raised the objection that the said application is not maintainable on the ground that the said application has been filed belatedly. Without considering the merits of the case, the court below has passed a non-speaking order. Hence, the order passed by the court below is liable to be set aside.

5. The learned counsel for the respondent would submit that the contention of the petitioner has been disputed, but, the counsel for the respondent is not in a position to dispute the fact that the said order passed by the trial court is reasoned and detailed order.

6. On perusal of the order passed by the court below, this court has come to a conclusion that the order passed by the trial court is non-speaking and without any reasons and therefore, in the interest of justice, I am inclined to pass the following order.

i) The impugned order in I.A.No.327 of 2015 in O.S.No.166 of 2011 passed by the Sub-Court, Pollachi dated 07.12.2016 is hereby set aside and remanded to the trial court to consider the case afresh and pass the reasoned order.

ii) Both parties are undertaking before this Court, they would cooperate to dispose the application before the trial court.

iii) The trial court is directed to dispose of the said application within a period of three months from the date of receipt of a copy of this order.

D. KRISHNAKUMAR J.

ssn

7. It is needless to say that the trial court has to decide the matter afresh, without being influenced any observation made in the order.

8. With the above directions, this Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Index: Yes/No
ssn

09.10.2017

To
The Sub-Judge,
Pollachi.

सत्यमेव जयते

WEB COPY

C.R.P.(PD).No.157 of 2017
and
C.M.P.No.653 of 2017