

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2017

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

C.R.P. (NPD) No.2182 of 2017
and
C.M.P.Nos.10473 and 14740 of 2017

1.Tmt.Murugammal
2.S.Subramani
3. Arumugam

.. Petitioners

Vs

R.Dharman

.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the Fair and Decretal Order dated 24.03.2017 passed in I.A.No.13526 of 2016 in O.S.No.6749 of 2012 on the file of the XV Assistant Judge, City Civil Court, Chennai.

For Petitioners : Mr.K.Bijai Sundar
For Respondent : Mr.B.Manivannan

ORDER

This revision arises against the Fair and decretal Order dated

24.03.2017 passed in I.A.No.13526 of 2016 in O.S.No.6749 of 2012 on the

file of the XV Assistant Judge, City Civil Court, Chennai.

2. The learned counsel for the petitioners submitted that the respondent has filed the suit in O.S. No. 6749 of 2012 for recovery of possession and other relief. The aforesaid suit was decreed by the court below. Against the decree, the petitioners filed an appeal in A.S. No. 238 of 2016. In the said suit, the respondent filed an Interlocutory Application in I.A. No. 13526 of 2016, to rectify the defects in the plaint and the decree passed by the court below. The court below allowed the application. Hence, the petitioners have filed this revision petition before this court.

3. According to the petitioner, the suit has been decreed, though there is typographical error in the plaint, the same cannot be rectified at this stage. The trial court has no power or jurisdiction to allow the said application and hence this revision has been filed before this Court.

4. The learned counsel for the respondent would submit that the said application was filed before the trial court since it is only a

typographical error and no prejudice would be caused to the petitioner. He further submitted that pursuant to the order passed in the amendment application, the judgment and decree has been rectified and therefore no further adjudication is required in the present revision petition. Hence, prayed for dismissal of the revision petition.

5. Considered the submissions made by the learned counsel for the petitioners, the learned counsel for the respondent and perused the material available on records.

6. The point for consideration before this Court is whether the trial court is right in allowing the amendment application filed by the respondent in I.A. No. 13526 of 2016, after the decree and judgement has been passed and when the appeal suit is pending before the Appellate Court. Further, pursuant to the order passed in I.A. NO. 13526 of 2016, the court below has carried out the amendment. At this stage, the learned counsel for the revision petitioner prayed this Court to grant liberty to the petitioner, to raise his objection before the Appellate Court.

7. In view of the above submissions made by the learned counsel for the parties, liberty is granted to the revision petitioners to raise all the grounds before the Appellate Court, at the appropriate stage. The Appellate Court is directed to dispose of the appeal, as expeditiously as possible.

8. The Civil Revision Petition is disposed of, with the above directions. Consequently, the connected Miscellaneous Petitions are closed. No order as to costs.

24.11.2017

Index : Yes/ No

Speaking order/ Non speaking order

[Issue order copy within one week]

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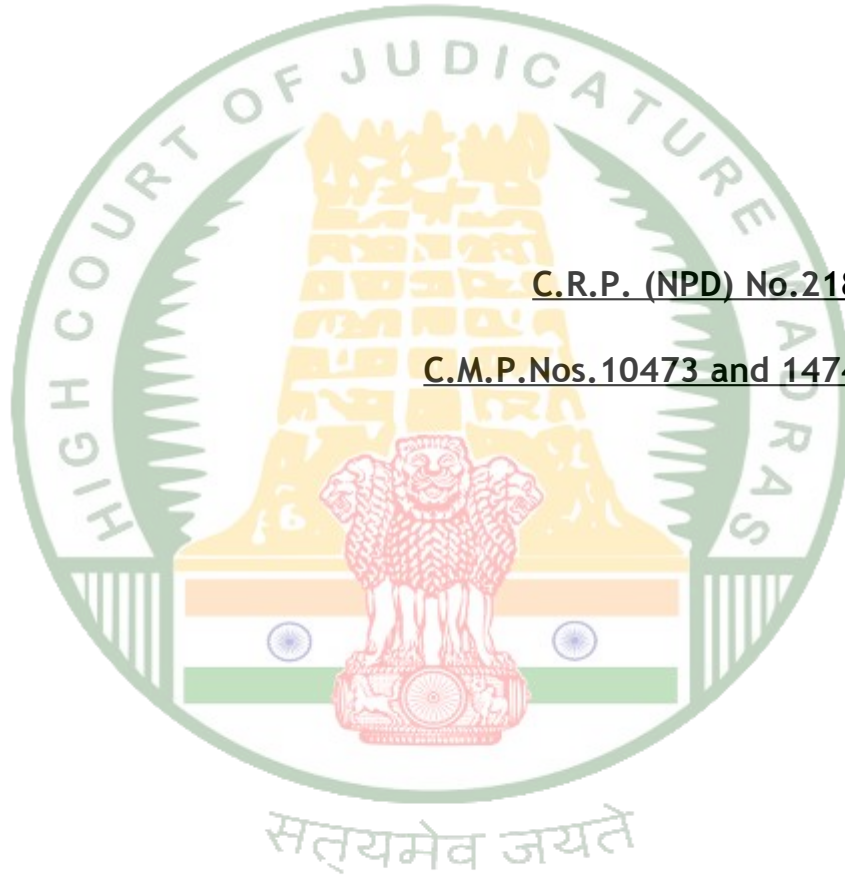
To

The XV Assistant Judge,
City Civil Court,
Chennai.

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D. KRISHNAKUMAR J.,

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