

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.11.2017

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR**Civil Revision Petition (PD) No.2796 of 2017****and****C.M.P.No.13223 of 2017**

S.Manikandan

... Petitioner

..Vs..

1.M/s.Sastha Oil Stores,
Through it Proprietor K.Mani,
No.130, Main Road,
Dindigul-1.

2.M/s.Kaleesuwari Refinery Private Limited,
No.64, Telugu Chetty Street,
Chennai - 600 021.

... Respondents

Prayer: This Civil Revision Petition has been filed under Article 227 of Constitution of India, against the fair and decretal order passed by the II Asst.City Civil Court, Chennai in I.A.No.5832 of 2017 in O.S.No.11422 of 2010, dated 11.07.2017.

For petitioner : Mr.Lakshminarayanan
For R1 : Mr.T.M.Hariharan
For R2 : Mr.L.Murali Krishnan

ORDER

Challenging the fair and decretal order passed by the II Asst.City Civil Court, Chennai, in I.A.No.5832 of 2017 in O.S.No.11422 of 2010, dated 11.07.2017, the present revision petition has been filed.

2. Today, when the matter is taken up for final hearing, the learned counsel for the Revision petitioner/3rd party/proposed 2nd defendant, has submitted that the proposed 2nd defendant is also a necessary party in the suit in O.S.No.11422 of 2010. However, the trial Court has dismissed the application in I.A.No.5832 of 2017 in O.S.No.11422 of 2010, seeking to implead the proposed party as 2nd defendant in the above suit.

3. During the course of arguments on the last hearing date, the counsel for the Revision Petitioner was directed to elucidate as to whether the proposed party is a necessary party in the suit; as to what relief is claimed as against the proposed second defendant/revision petitioner and also to find out whether issues have been framed by the trial Court in respect of non-joinder of necessary parties.

4. Today, when the matter is taken up for hearing, the learned counsel for the Revision Petitioner would fairly submit that issues have not been framed by

the trial Court and therefore, this Court may direct the trial Court to frame the issues of non-joinder of necessary parties and to proceed with the matter.

5. The learned counsel for the respondents has submitted that he has no objection for this court directing the trial court to frame necessary issues for non-joinder of necessary parties.

6. In the light of the submissions made by the learned counsel for the parties, this Court is not inclined to interfere with the order passed by the trial Court. However, the trial Court is directed to frame additional issues with regard to "non-joinder of necessary parties in the said suit" and further the trial Court is directed to proceed with the matter in accordance with law.

With the above observation, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

सत्यमेव जयते

08.11.2017

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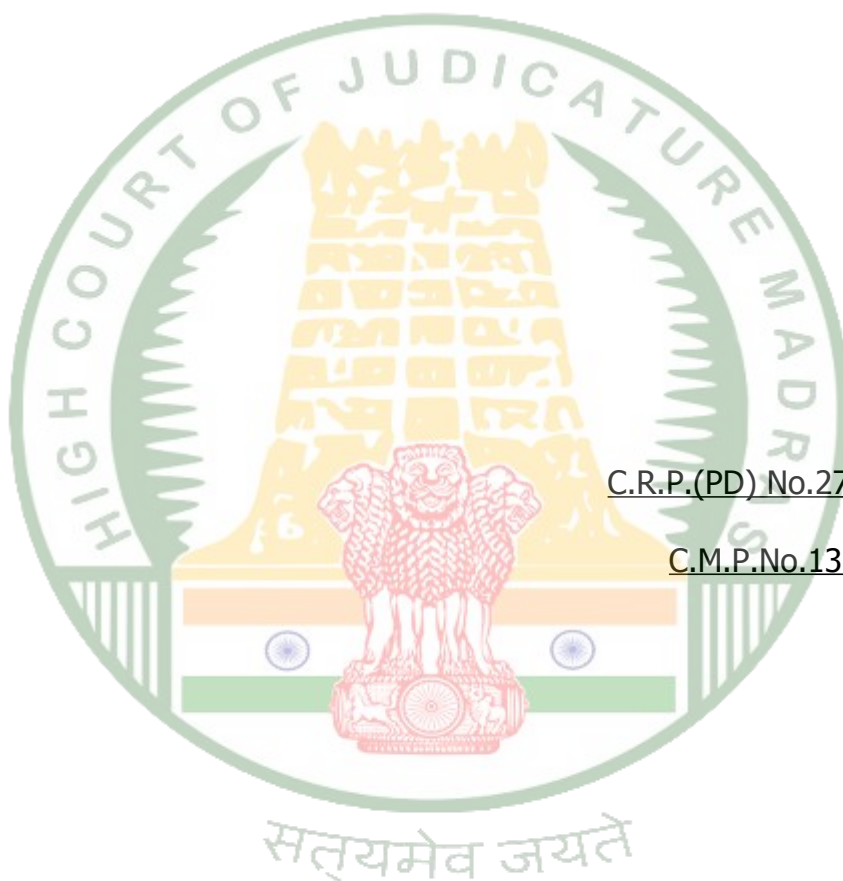
To

The II Asst.City Civil Court, Chennai.

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D.KRISHNAKUMAR, J.,

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and
C.M.P.No.13223 of 2017

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