

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.09.2017

C O R A M

THE HONOURABLE MR.JUSTICE M. GOVINDARAJ

C.R.P.(PD) NO.3334 OF 2017
AND CMP NO.15524 OF 2017

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- 1.Kerala Friends' Welfare Association
Rep. by its President
No.6, Parthasarathy Street,
Saligramam, Chennai - 600 093.
- 2.The President
Kerala Friends' Welfare Association
Rep. by its President
No.6, Parthasarathy Street,
Saligramam, Chennai - 600 093.
- 3.The General Secretary
Kerala Friends' Welfare Association
Rep. by its President
No.6, Parthasarathy Street,
Saligramam, Chennai - 600 093.
- ... Petitioners

Vs.

N.K.Vijayan ... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 04.08.2017 made in I.A.No.8089 of 2017 in O.S.No.3313 of 2017 on the file of V Assistant City Civil Court, Chennai.

For Petitioners : Ms.P.T.Asha
for M/s.Sarvabhauman Associates

For Respondent : Mr.C.B.Muralikrishnan

ORDER

This Civil Revision Petition is directed against the order allowing the injunction application filed under Order XXXIX Rules 1 and 2 of the Civil Procedure Code for the absence of the defendants / petitioners herein.

2. The learned counsel for the petitioner would contend that the Trial Court has not considered the *prima facie* case and balance of convenience and irreparable injury that would be caused to the petitioners while deciding the matter. Without recording any reasons, only because the petitioner is absent, the injunction order has been granted. Hence, it is opposed to Order XXXIX Rules 1 and 2 of the Civil Procedure Code and is liable to be set aside.

3. Mr.C.B.Muralikrishnan, learned counsel entered appearance on behalf of the respondent / plaintiff and would submit that there is an

appeal remedy available for the defendants / petitioners herein and even now, the defendants / petitioners herein can approach the appropriate forum and get orders on merits, by setting aside the *exparte* order.

4. From a perusal of the order, it is seen that no reasons were recorded for granting injunction. Only because the defendants / petitioners herein are set *exparte*, it is not automatic to grant an order of injunction. The Trial Court is expected to give reasons and pass orders in accordance with the ingredients incorporated under Order XXXIX Rules 1 and 2 of the Civil Procedure Code. When the Courts fail to follow the mandatory procedures laid down by law and stray from the regular course, the order can be interfered under Article 227 of the Constitution of India.

5. In such circumstances, the order passed by the Trial Court is liable to be set aside. Accordingly, the order dated 04.08.2017 passed in I.A.No.8089 of 2017 in O.S.No.3313 of 2017 by the learned V Assistant Judge, City Civil Court, Chennai, is set aside and a direction is issued to the Trial Court to pass orders, on merits and in accordance with law, after hearing both parties, within a period of one month from the date of receipt of a copy of this order.

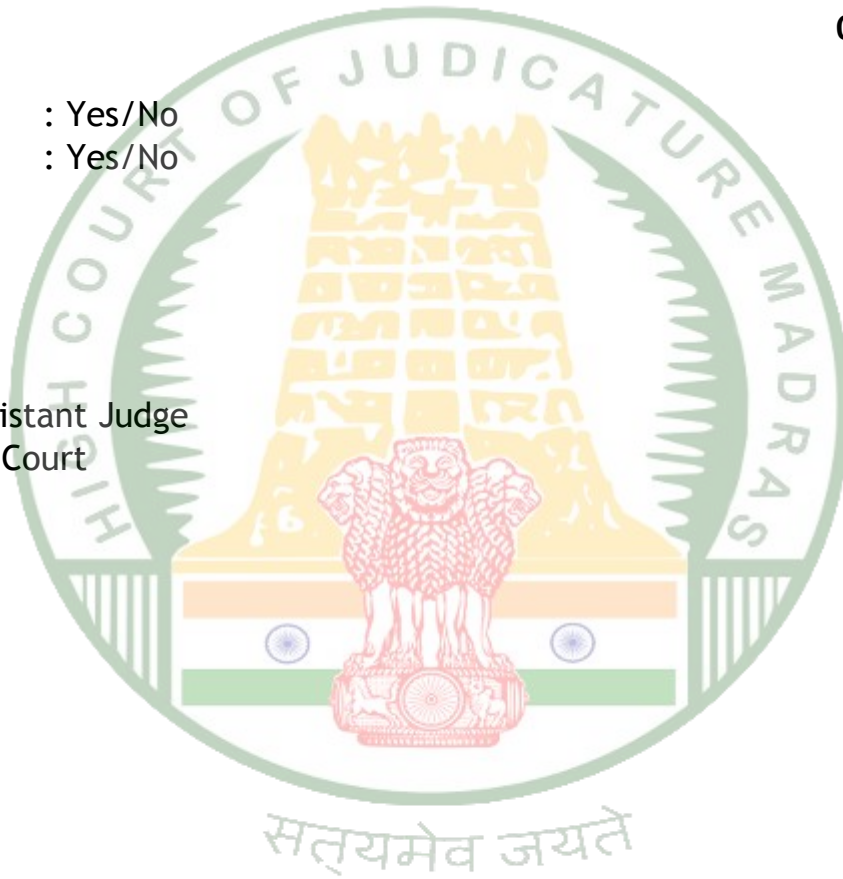
6. With the above observation and direction, the Civil Revision Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

08.09.2017

Index : Yes/No
Internet : Yes/No
TK

To

The V Assistant Judge
City Civil Court
Chennai.



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M.GOVINDARAJ, J.

TK



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