

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.10.2017

CORAM

THE HON'BLE MR. JUSTICE **D. KRISHNAKUMAR**

CRP.PD.No.3832 of 2017
and CMP.No.17901 of 2017

Jayachitra

..Petitioner

Vs.

1. Emmanuel Full Gospel Mission Trust
Rep.by its Trustee Tuhin Samuel,
8D, Kumarasamy Street,
Rasipuram,
Rasipuram Taluk,
Namakkal District

2. Tuhin Samuel - Trustee

3. Padmanaban

4. M/s.Sundaram Finance Ltd.,
By Managing Director,
21, Patullous Road,
Madras-2

5. The Investment Trust of India Ltd.,
By its Managing Director,
Share Department,
Mashkur Buildings Ground Floor,
No.1, Krishnama Road,
Madras-34

6. Wheels India Ltd.,
by its Managing Director,
Padi,
Madras-50

7. Sri.Chakra Tyres Ltd.,
by its Managing Director,
10, Jawahar Road,
Madurai-2

8. The Salem Cooperative Sugar Mills Ltd.,
By its Special Officer,
Mohanur,
Namakkal District

9. State Bank of India by Manager,
Salem Main Road,
Rasipuram – 637 408.
Namakkal District.

10. State Bank of India by Manager,
Salem Main Road,
Fort,
Salem

11. State Bank of India by Manager,
Kotagiri,
The Nilgiris.

12. State Bank of India by Manager,
Ooty,
The Nilgiris

13. Canara Bank by Manager,
Rasipuram,
Namakkal District

14. Canara Bank,
Seerapalli by Manager,
Seerapalli Post,
Rasipuram Taluk

15. Canara Bank,
Konavakarai(Kotagiri),
By its Manager,
Kothagiri,
The Nilgiris

16. Indian Bank by Manager,



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Rasipuram,
Namakkal District

17. Post Master General,
Anna Salai,
Madras-2

18. Rasipuram Textiles Ltd.,
Rep.by 1.Dri.Nainamalai,
2. Govindarajan,
3. Arumugam Chettiar,
C.P.Kanniya Naidu Street,
Rasipuram
Namakkal District
Parthasarathi(died),
Pastor Williams(died)

19. Dr.Jerome

20. Gnana Durairaj

21. George Wilsons

22. Raja

23. Moorthy
(Notice R4 to R23 is dispensed with)

..Respondents

PRAYER:

The Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decretal order dated 30.08.2017 made in I.A.No.216 of 2016 in I.A.No.53 of 2017 in O.S.No.294 of 2004 on the file of the learned Sessions Judge, Fast Track Mahila Court, Namakkal.

For Petitioner : Mr.N.Manokaran

For Respondents : Mr.P.Subramaniam
for Mr.M.Francis Xavier
for R1 & 2

: Mr.D.Anbarasan for R3

ORDER:

The revision petitioner has filed a suit in O.S.No.379 of 1994 on the file of the learned Sub Court, Namakkal against the respondents 3 to 18 herein and two others for the relief of partition and separate possession. After transfer, the suit was renumbered as O.S.No.294 of 2004 on the file of the learned Additional District Court, Namakkal. Pending the above suit, the respondents 1 and 2 have filed an application in I.A.No.38 of 2017 before the learned Additional District Court, Namakkal to implead them as defendants Nos.24 and 25, which was transferred and renumbered as I.A.No.53 of 2017. After notice was served, the petitioner filed a counter statement on 28.06.2017. The I.A. was adjourned to various dates for filing counter of other respondents and also for service of notice to the unserved respondents. The proposed respondents have not furnished copies of the documents in I.A. and hence, the petitioner filed a memo to furnish copies of the said documents to the petitioner. On the direction of the trial court, the same were furnished on 13.06.2017. Immediately, the petitioner has filed an application in I.A.No.216 of

2017 on 18.07.2017 seeking leave to file additional counter statement on the basis of the above documents furnished. The said application was dismissed by the trial court on the ground that the petitioner has filed the application belatedly. Challenging the aforesaid order, the petitioner has filed the present Civil Revision Petition before this Court.

2. The learned counsel for the petitioner would submit that on receipt of notice in I.A.No.53 of 2017, the petitioner has filed the counter statement and subsequently, the petitioner filed memo for furnishing documents which were relied upon by the proposed respondents. The said documents were furnished on 30.06.2017. The present application was filed on 18.07.2017. Hence, there is no delay on the part of the petitioner. Without considering the aforesaid facts, the court below has erroneously dismissed the said application. Therefore, the impugned order passed by the trial court is liable to be set aside.

3. Per contra, the learned counsel for the first and second respondents would submit that taking into consideration that the petitioner has taken inconsistent stand, the court below has rightly dismissed the said application. Hence, there is no warrants to interfere with the orders passed by the court below.

4. Considered the submissions made by the learned counsel for the parties and also perused the available materials.

5. The revision petitioner has filed an application in I.A.No.216 of 2017 under Order 8 Rule 9 of the Code of Civil Procedure. The court below has rejected the said application for the reason that the revision petitioner has filed the application belatedly and there is no explanation for the delay in filing the said application. But, it is seen from the fact that the documents were furnished on 30.06.2017 and after receipt of the same, the revision petitioner has filed additional counter statement on 18.07.2017. Hence, there is no delay on the part of the petitioner in filing the above said interlocutory application. By granting an opportunity to the petitioner, the impugned order passed by the Court below is liable to be set aside.

6. In view of the above facts and circumstances, the impugned order passed by the court below in I.A.No.216 of 2017 is set aside and accordingly the Civil Revision Petition is allowed. The trial court is directed to dispose of the I.A.No.53 of 2017 as expeditiously as possible preferably within a period of six weeks from the date of receipt of a copy of this Order. Further, liberty is granted to the first and second respondents to raise additional reply statement before the

trial court, if necessary.

7. Thus, the Civil Revision Petition is disposed of as above. Consequently, the connected miscellaneous petition is closed. No costs.

23.10.2017

Speaking/Non-speaking order
Index : Yes/No
Internet : Yes/No
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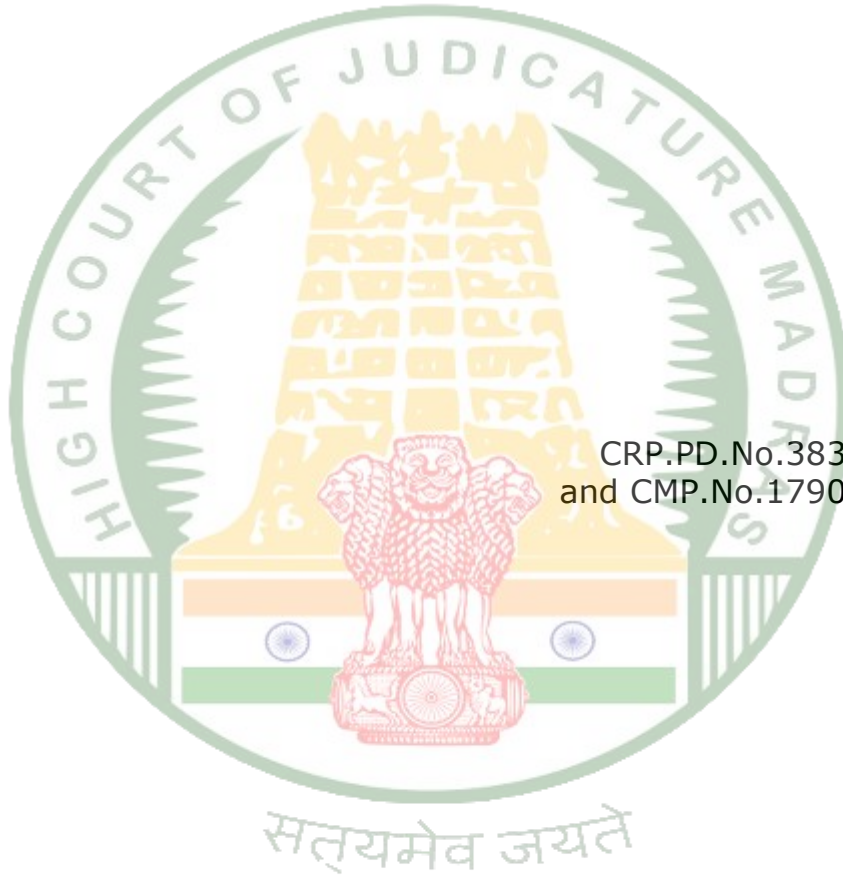
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D.KRISHNAKUMAR. J,

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To

The Sessions Judge,
Fast Track Mahila Court,
Namakkal.



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