

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2017

CORAM

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

CRP.(PD).No.4608 of 2017
and CMP.No.21695 of 2017

M.Nachimuthu

..Petitioner

Vs.

K.Subramaniam

..Respondent

PRAYER:

The Civil Revision Petition is filed under Article 227 of the Constitution of India against the Fair and Decreetal order dated 25.07.2017 made in I.A.No.144 of 2017 in O.S.No.512 of 2011 on the file of the Principal Sub Judge, Tiruppur.

For petitioner : M/s.R.Shase

ORDER

According to the revision petitioner, the revision petitioner has filed a suit in OS.No.512 of 2011 before the Principal Subordinate Court, Tiruppur for declaration and consequential permanent injunction. In the aforesaid suit, after trial has commenced, the respondent has filed an application in IA.No.144 of 2017 to file counter claim. The court below has allowed the said

application. Challenging the same, the revision petitioner has filed the present Civil Revision Petition before this Court.

2. The learned counsel for the revision petitioner would submit that the trial court, without considering the objections of the revision petitioner, has allowed the instant application. The main objection of the revision petitioner is that the said counter claim has been filed at the time of cross-examination of PW1 and hence the said application is not maintainable and the relief prayed for in the counter claim is also barred by limitation. Further, it is also the case of the revision petitioner that the respondent has taken inconsistent defence in the counter claim. Therefore, the impugned order passed by the court below is liable to be set aside.

3. Considered, the submissions made by the learned counsel for the revision petitioner and perused the materials available on record.

4. On perusal of the impugned order, the trial court, after taking into consideration the objections of the revision petitioner, has allowed the application with liberty to the revision petitioner to raise all the objections at the time of trial. Since the

revision petitioner can very well make the objections at the time of trial, there is no illegality or infirmity in the impugned order. Hence, the Civil Revision Petition is liable to be dismissed. However, the court below is directed to frame the objections raised by the revision petitioner as additional issues and proceed with the trial. At this stage, the learned counsel for the revision petitioner would request that this Court may direct the trial court to dispose of the said suit within the time frame fixed by this Court.

5. On the request of the learned counsel for the revision petitioner, the Principal Subordinate Court, Tiruppur is directed to dispose of the suit in OS.No.512 of 2011 within the period of six months from the date of receipt of a copy of this Order, after the revision petitioner has filed his objections.

6. The Civil Revision Petition is dismissed with above observations. Consequently, the connected miscellaneous petition is closed. No costs.

15.12.2017

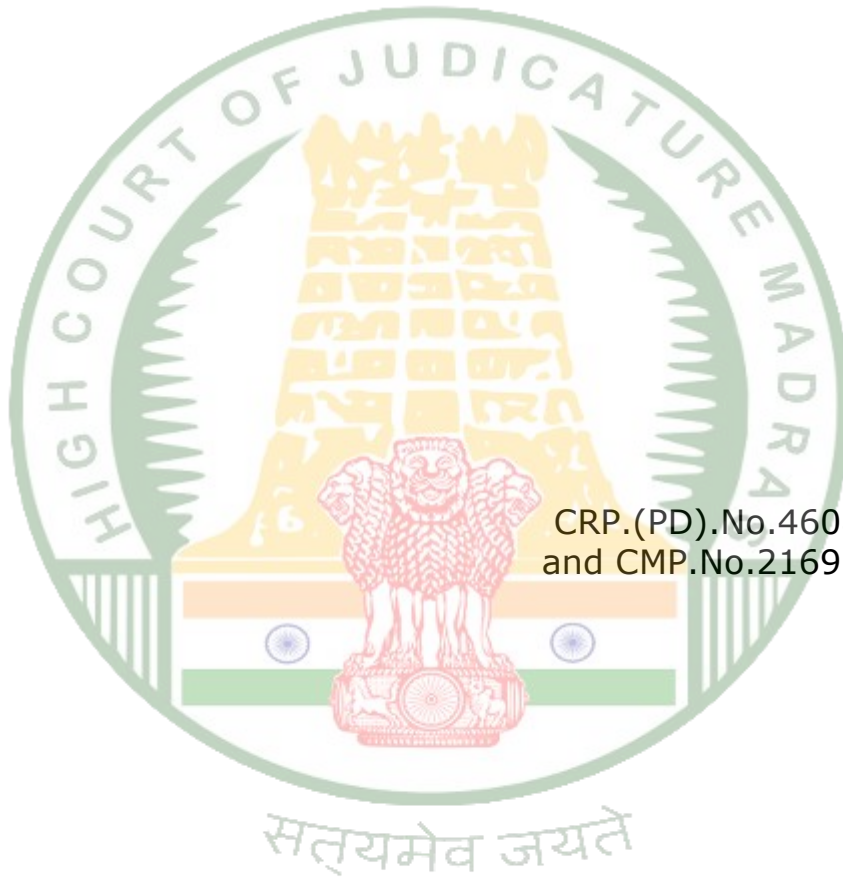
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D.KRISHNAKUMAR.J,

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To

The Principal Sub Judge,
Tiruppur.



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