

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.03.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

C.R.P.(PD).No.877 of 2017

M/s.Rayyaan Architects,
rep by Managing Partner,
Mohamed Hayas,
No.23, 1st Floor, 1st Street,
Sait Colony, Egmore,
Chennai - 600 008.

... Petitioner

Vs.

1.Dr.Sreelatha

2.Dr.Murugappan

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the petition and order dated 23.12.2016 made in I.A.No.17072 of 2016 in O.S.No.3486 of 2014 on the file of the VII Assistant Judge, City Civil Court, Chennai.

For Petitioner : Mr.M.Selvam

ORDER

Challenging the order passed in I.A.No.17072 of 2016 in O.S.No.3486 of 2014 on the file of the VII Assistant Judge, City Civil Court, Chennai, the plaintiff has filed the above Civil Revision Petition.

2.The plaintiff filed the suit in O.S.No.3486 of 2014 for recovery of money.

3.The defendants filed their written statement and are contesting the suit.

4.When the suit was taken up for trial, since the defendants failed to appear before the trial Court, they were set exparte and an exparte order was passed, closing the evidence on the side of the defendants. Thereafter, the defendants filed applications in I.A.No.17071 of 2016 to reopen the evidence of P.W.1, I.A.No.17072 of 2016 to recall P.W.1 for cross examination and I.A.No.17073 of 2016, under Order IX Rule 7 of the Civil Procedure Code, to set aside the exparte order dated 08.12.2016.

5.Now, the grievance of the petitioner/plaintiff is that the trial Court, without ordering Order IX Rule 7 application in I.A.No.17073 of 2016, ordered notice in the other two applications. Admittedly, the suit is in the trial stage and in order to avoid further delay, all the applications can be decided at once.

6.However, since the defendants were set exparte on 08.12.2016, the trial Court is directed to decide the application in I.A.No.17073 of 2016 filed under Order IX Rule 7 of the Civil Procedure Code, first and thereafter, decide the other two applications.

7.In these circumstances, I do not find any reason to interfere with the order passed in I.A.No.17071 of 2016 ordering notice to the respondents/defendants.

8.With these observations, the Civil Revision Petition is disposed of.

9.Since the suit is pending from the year 2014, I direct the VII Assistant Judge, City Civil Court, Chennai, to dispose of the suit in O.S.No.3486 of 2014 on merits and in accordance with law within a period of four months from the date of receipt of a copy of this order. No costs.

Index : No
Internet : Yes
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14.03.2017

To

The VII Assistant Judge,
City Civil Court,
Chennai.

M.DURAIWAMY,J.
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