



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.11.2017

CORAM :

WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

CRP(NPD) (MD)No.1634 of 2017

and

C.M.P. (MD)No.9180 of 2017

1.Indiragandhi

2.S.Soundirarajan

... Revision Petitioners

vs.

1.A.Subramanian

2.S.Poomalai

... 1st Respondent

... 2nd Respondent

PRAYER: Petition filed under Section 115 of the Code of Civil Procedure against the Fair Order and Decreetal order dated 06.09.2016 passed in E.A.No.130 of 2013 in E.A.No.50 of 2006 in E.P.No.35 of 2006 in O.S.No.117 of 2002, on the file of the Subordinate Judge, Aruppukkottai.

For Petitioners : Mr.S.Parthasarathy

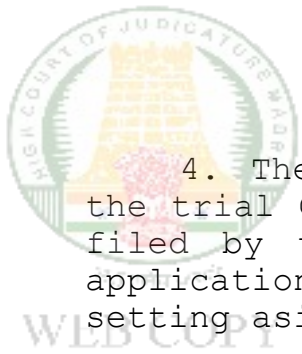
For Respondents : Mr.PT.S.Narendravasan Caveator
for R-1

O R D E R

The above Civil Revision Petition has been filed challenging the Fair and Decreetal order dated 06.09.2016, passed in E.A.No.130 of 2013 in E.A.No.50 of 2006 in E.P.No.35 of 2006 in O.S.No.117 of 2002, on the file of the Subordinate Judge, Aruppukkottai.

2. Heard the learned Counsel for the petitioners and the learned Counsel for the first respondent and perused the materials available on record.

3. The plaintiffs have filed a suit in O.S.No.117 of 2002 for specific performance and the suit was decreed as prayed for. Subsequently, the petitioner filed an execution petition in E.P.No.35 of 2006. In that E.P., the first respondent filed an application in E.A.No.50 of 2006 for dismissing the execution petition filed by the petitioners/plaintiffs. Pending the above E.A., the first respondent filed another application in E.A.No.130 of 2013 seeking amendment to remove the entire para 4(a) of the petition in E.A.No.50 of 2006, by trying to take away a positive admission given in favour of the revision petitioners.



4. The learned Counsel for the petitioners would submit that the trial Court had failed to take into consideration the documents filed by the petitioners during the enquiry, while allowing the application filed by the first respondent and hence he prays for setting aside the order.

5. The learned Counsel for the first respondent would submit that he has no objection for remitting the matter back to the trial Court for fresh disposal of the application, after considering the documents filed on the side of the revision petitioners.

6. On a perusal of the records, it shows that the trial Court, while allowing the application filed by the first respondent seeking amendment, it has not considered the documents filed by the revision petitioners. Hence, considering the submissions made by both sides, this Court is of the view that ends of justice would be met, if the matter is remitted back to the trial Court for fresh consideration.

7. In the result, this Civil Revision Petition is allowed by setting aside the order passed in E.A.No.130 of 2013 in E.A.No.50 of 2006 in E.P.No.35 of 2006 in O.S.No.117 of 2002, by the Subordinate Judge, Aruppukkottai and E.A.No.130 of 2013 is remanded back to the trial Court for fresh consideration, after considering the documents filed by the revision petitioners and pass appropriate orders on merits and in accordance with law. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (P&A)

/True Copy/

Sub Assistant Registrar

To

The Subordinate Judge, Aruppukkottai.

+ 1 CC TO Mr.S.PARTHASARATHY, ADVOCATE IN SR No. 85143
+ 1 CC TO Mr.P.T.S.NARENDRAVASAN, ADVOCATE IN SR No. 85226

GSP/SSL

TE/MR-KKR/SAR-II : 14/11/2017 : 2P/4C

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