

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 03.07.2018

CORAM

The Hon'ble Mr.Justice **P.VELMURUGAN**

CRP(PD)No.1034 of 2018

1.I.Geoffrey Joe

2.Lavanya

... Petitioners/
defendants

vs.

1.J.Prabhakaran

2.R.Kala

... Respondents/
Plaintiffs

Civil Revision Petition filed under Article 227 of the Constitution of India to allow the civil revision petition and direct the Sub-Judge at Ponneri to number the unnumbered I.A. in S.R.No.1855 of 2018 in O.S.No.52 of 2012 on the file of the Sub Court, Ponneri.

For Petitioners ... Ms.S.Mythreye Chandru

For Respondents ... Mr.K.Mahalingam

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ORDER

The Civil Revision Petition has been filed to direct the learned

Subordinate Judge, Ponneri to number the three unnumbered Interlocutory Applications filed in S.R.No.1855 of 2018 in O.S.No.52 of 2012 on the file of the Sub Court, Ponneri.

2.The petitioners herein are the defendants and the respondents herein are the plaintiffs.

3.The learned counsel for the petitioners submitted that the respondents/plaintiffs filed a suit in O.S.No.52 of 2012 against the petitioners/defendants under Order VII Rule 1 CPC seeking to pass a judgment and decree in favour of the plaintiffs for a sum of Rs.7,32,500/- together with interest at the rate of 18% per annum and for permanent injunction restraining the defendants from interfering with the plaintiff's peaceful possession and enjoyment of the suit property. Thereafter, petitioners/defendants filed another suit in O.S.No.23 of 2014 against the respondents/plaintiffs under Order VII Rule 1 CPC to evict the defendants from the plaint schedule property.

4.The learned counsel for the petitioners further submitted that when both the suits were tried together and taken up for joint trial, the petitioners filed two unnumbered applications seeking to reopen

and recall the further evidence of the petitioners. The trial Court returned both the applications for correcting some defects and the same were rectified and re-presented. The petitioners also filed another unnumbered application seeking a direction to issue supena to the Deputy Director, Document Division, E.D. Thamarai Selvan, BSC, PGDVTS, PGDYVHS, Scientific Officer and document expert in respect of their report in document No.305/13, dated 21.04.2014, Science Forensic Department No.30, Kamaraj Salai, Mylapore, Chennai to examine him as D.W.2. Hence, the learned counsel requested this Court to allow the civil revision petition in order to give an opportunity to the petitioners.

5.The learned counsel for the respondents submitted that the earlier civil revision petition filed in C.R.P.(PD)No.4989 of 2014 by the revision petitioners was disposed of by the order of this Court dated 06.01.2015 directing the trial Court to dispose of the suit in O.S.No.52 of 2012 within a period of six months from the date of receipt of a copy of that order. Now, the petitioners filed three applications at the belated stage and the trial Court has not accepted those applications as they were filed beyond the time specified by this Court. Hence, the civil revision petition is liable to be dismissed.

6.Heard the learned counsel for both sides and perused the

materials available on record.

7.It is seen that initially, the petitioners have filed two applications. The trial Court returned the said two applications on 02.03.2018 for the following reasons:

"(i)Thiru L.Sundaram examined as D.W.1. But, wrongly mentioned in this affidavit as R.W.1.

(ii)How this petition is maintainable at this stage?

(iii)Additional docket sheet to be enclosed?

Time for compliance one week."

8.Subsequently, the defects have been complied with and the said applications were re-presented on 09.03.2018 and thereafter, there was no order in the docket. It shows that the trial Court has not passed any order after re-presentation of the petitions and has not given any reason or explanation for not accepting the applications.

9.Considering the facts and circumstances of the case, this Court is inclined to pass the following orders:

"(i)The trial Court is directed to receive the three applications and take the same on

file if they are other wise in order.

(ii) If at all they are taken on file, the trial Court is further directed to dispose of the same on merits and in accordance with law."

With the above directions, the civil revision petition is disposed of. No costs.

03.07.2018

Index:Yes/No
Speaking Order:Yes/No

Note to Office:
(i)Issue order copy
on 06.07.2018.

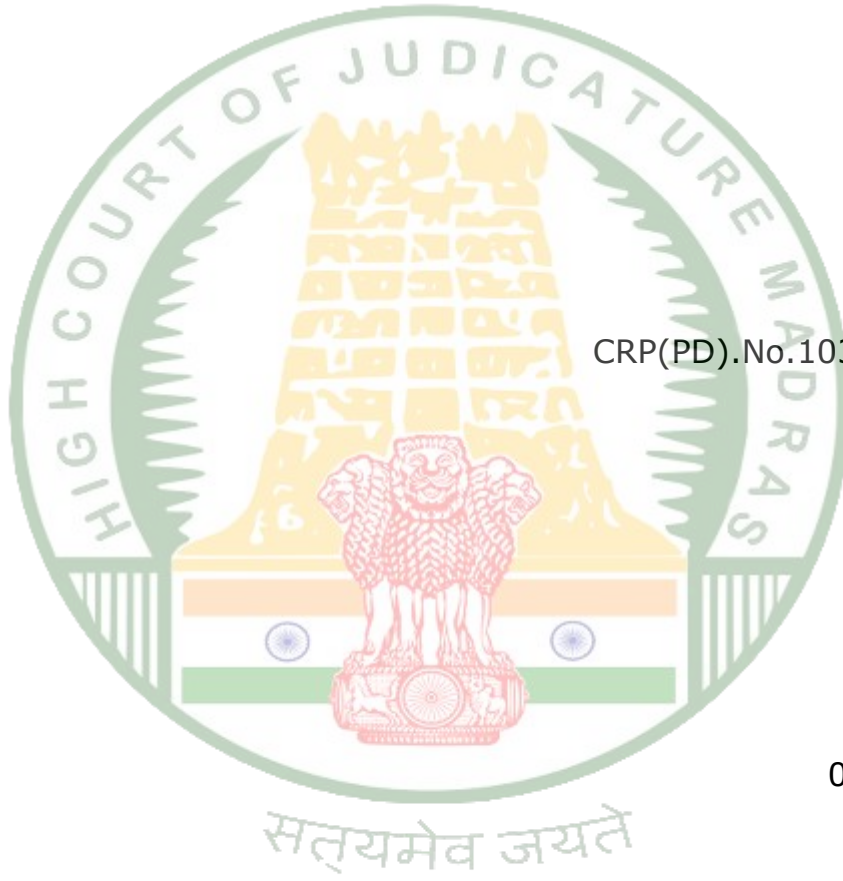
(ii)The Registry is directed to
return the original applications
filed in the civil revision
petition.

cla

To

The Subordinate Judge,
Ponneri.

P.VELMURUGAN.J,



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