

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

TUESDAY, THE 24TH DAY OF JULY 2018

THE HON'BLE MR. JUSTICE N.SATHISHKUMAR

A. No.104 of 2017

in

C.S.No.464 of 2015

T.Sourirajan,
S/o.A.Thiruvengkatasamy Iyengar,
No.41-D, Sarangapani Street,
T.Nagar, Chennai-600 017. Plaintiff

-Versus-

1. T.Manoharan,
S/o.Thirugnana Kandiar,
2. Mrs.M.Amudha,
W/o.T.Manoharan,
1 & 2 are at No.9,
Thenvadal 6th Street,
Mannargudi Town-614 001
Tiruvarur District. Defendants

A.No. 104 of 2017:

1. T.Manoharan,
S/o.Thirugnana Kandiar,
2. Mrs.M.Amudha,
W/o.T.Manoharan,
1 & 2 are at No.9,
Thenvadal 6th Street,
Mannargudi Town-614 001
Tiruvarur District. : Applicants/Respondents/
Defendants

-Vs.-

T.Sourirajan,
S/o.A.Thiruvenkatasamy Iyengar,
No.41-D, Sarangapani Street,
T.Nagar, Chennai-600 017.

: Respondent/Applicant/
Plaintiff

Application praying that this Hon'ble Court be pleased to set aside the exparte order Application No. 2338/2016 in C.S.No.464 of 2015 dated 04.11.2016 of directing the applicants to furnish security for the suit claim of Rs.38,50,999 and consequential default order of attachment schedule mentioned property shown in A.No.2338 of 2016 in C.S.No.464 of 2015.

This Application coming on this day before this Court for hearing the court made the following order:-

This application has been filed to set aside the exparte order in A.No.2338 of 2016 in C.S.No.464 of 2015 dated 04.11.2016, directing the applicants to furnish security for the suit claim of Rs.38,50,999/- in default to attachment of the schedule mentioned property shown in Application No.2338 of 2016 in C.S.No.464 of 2016.

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2.Despite the fact that having received the notice in the application, the first respondent has failed to appear before this Court and the second respondent being the wife of the first respondent unclaimed the notice. Taking into consideration the said fact, this Court had

passed an order on 04.11.2016.

3.The main contention of the applicants is that they were under the bonafide impression that their counsel will continue to appear before this Court since he was already engaged in leave to sue application.

4.It is the further contention of the applicants that notices have been served on them in other applications and not in this application. It is to be noted that the private notice was very much served on them on 17.08.2016 and the same was unclaimed by them.

5.Therefore, the contention of the applicants that the notice in this application has not been served on them has no legs to stand. Further, it is also seen from the affidavit that the properties have already been mortgaged with the Indian Bank, Mannargudi for the different transactions and there is no need to set aside the exparte order as the notice has already been served on the respondents.

6.Accordingly, I do not find any reasons to interfere with the order passed by this Court in

Application No.2338 of 2016 in C.S.No.464 of 2015 dated 04.11.2016. Accordingly, this application is dismissed.

7.Post C.S.No.464 of 2015 for framing issues on 17.08.2018.

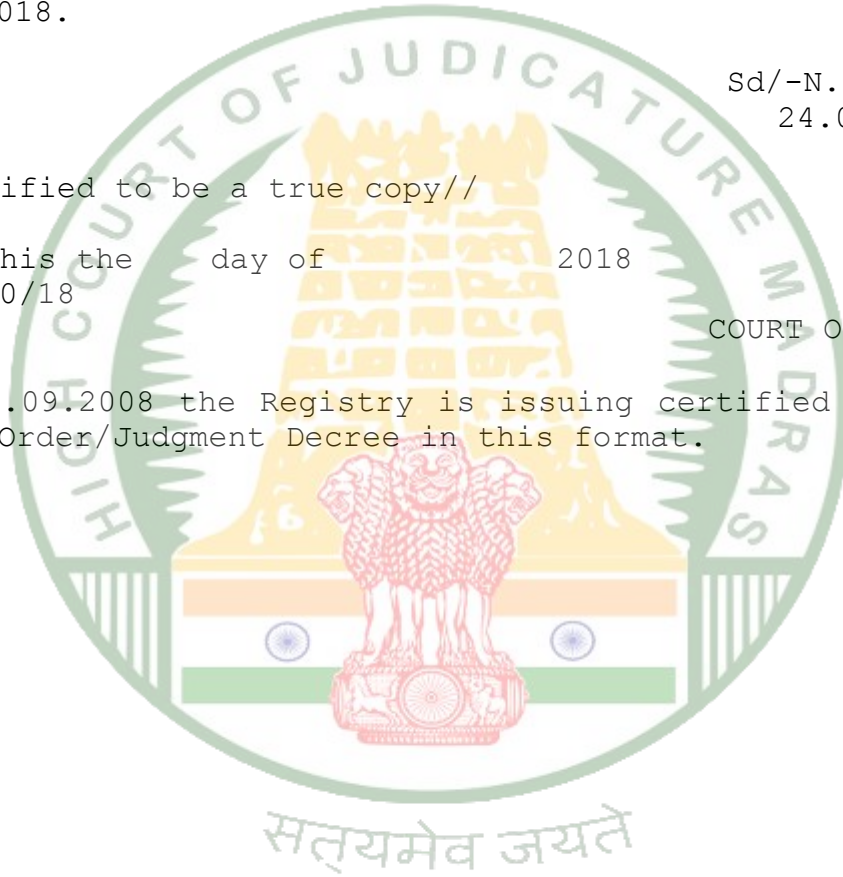
Sd/-N.S.K.J
24.07.2018

//Certified to be a true copy//

Dated this the day of 2018
JJ 11/10/18

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.



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