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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.12.2018

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

Review Application.No.312 of 2018

&

C.M.P.No.22008 of 2018

in

C.R.P.(PD)No.2401 of 2010

1.A.V.S.Ganesan ... Petitioner/Respondent

Vs

1.A.V.S.Balasubramanian ... Respondent/Petitioner

Prayer: Review Application filed under Section 114 of the Code of Civil Procedure to review the order passed in C.R.P.(PD) No.2401 of 2010 dated 12.10.2018.

Prayer in CRP.PD No. 2401 of 2010: This civil Revision Petition is filed under Article 226 of the Constitution of India challenging the Order dated 19/04/2010 passed by the Learned Additional District Munsif , Mayiladuthurai in I.a.No. 174 of 2009 in O.S.No. 4 of 2009.

For Petitioner : Mr.K.M.Vijayan
Senior Counsel
for M/s.K.M. Vijayan Associates

For Respondent : Mr.T.P.Manoharan
Senior Counsel
for Mr.K.P.Jotheeswaran

Judgment

The above review petition was filed in respect of the order of this Court dated 12.10.2018 in C.R.P.(PD).No.2401 of 2010. It was brought to the notice of this Court that while passing the order dated 12.10.2018 this Court has proceeded on the basis that I.A.No.174 of 2009, was a petition seeking ad interim injunction, whereas, the application I.A.No.174 of 2009 was filed for "restoring possession" of the B-Schedule property along with all the household articles described in the C-Schedule to the petition to the revision petitioner/respondent herein. The application for injunction was numbered as I.A.No.5 of 2009. In paragraph No.5 of the order, under review also, the petition for ad interim injunction has been described as



I.A.No.174 of 2009. The Senior Counsel appearing on behalf of the review petitioner would further submit that I.A.No.5 of 2009 has itself reached its finality in view of the order dated 25.03.2009.

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2.The learned Additional District Munsif, Mayiladuthurai had passed the following order in I.A.No.5 of 2009:

"25.03.2009: Enquiry No interim order is in favour. The main suit ripened for trial. Hence this petition closed without prejudice to this interest of petitioner's case."

3.He would further contend that the order under review has to be modified, since, this Court has proceeded on the basis that the injunction petition is still pending enquiry. The counsel for the respondent/revision petitioner also admits the anomaly. The review petition is therefore ordered modifying the order dated 12.10.2018 in C.R.P.(PD)No.2401 of 2010 on the following lines. In Paragraph No.5 of the order instead of IA.NO.174 of 2009, the same shall be changed to I.A.No.5 of 2009.

4.Likewise, Paragraph No.13 of the order is modified as follows:

"The Additional District Munsif, Mayiladuthurai is directed to dispose of the suit O.S.No.4 of 2009, pending at the state of trial. The District Munsif shall take up the trial immediately on receipt of a copy of the order and shall dispose of the suit on or before 15.02.2019."

On these lines, review petition stands disposed of. In all other respects order dated 12.10.2018 in C.R.P.(PD).No.2401 of 2010 shall remain intact. Consequently, connected Civil Miscellaneous Petition is also closed. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1.The Additional District Munsif,
Mayiladuthurai.

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+1cc to Mr.K.P.Jotheeswaran, Advocate, S.R.No. 88156

+1cc to Mr.K.M.vijayan Associates, Advocate, S.R.No. 87738

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SSD(CO)
GN(19/12/2018)