

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 10.04.2018

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

C.R.P.(PD)No.1324 of 2018 and
CMP.No.6910 of 2018

R.Ram Mohan

... Petitioner

Vs.

1. R.Kamalakaran
2. Gnanapadham
3. Srinivasan
4. Rajini
5. D.Babu

... Respondents

Civil Revision Petition has been filed under Article 227 of the Constitution of India against the order and decretal order dated 13.10.2017 made in I.A.No.578 of 2017 in O.S.No.140 of 2012 on the file of the learned Principal District Munsif, Cheyyar, Thiruvannamalai District.

For Petitioner

: Mr.R.Ramya

ORDER

This civil revision petition has been filed against the order and decretal order dated 13.10.2017 made in I.A.No.578 of 2017 in O.S.No.140 of 2012 on the file of the learned Principal District Munsif, Cheyyar, Thiruvannamalai District.

2 The first respondent herein filed a suit against the revision petitioner for declaration and permanent injunction. The revision petitioner is

5th defendant in the suit. The first respondent/plaintiff filed an application under Section 151 of CPC, to reopen plaintiff side evidence in order to substantiate his claim. The said application was contested by the petitioner/5th defendant by filing counter in the interlocutory application.

3 The learned Principal District Munsif, Cheyyar, Thiruvannamalai District, after hearing the arguments advanced on either side, by an order dated 13.10.2017 allowed the application in I.A.No.578 of 2017 in O.S.No.140 of 2012, without imposing costs.

4 Aggrieved against the said order dated 13.10.2017, the petitioner/5th defendant is before this Court with the present civil revision petition, seeking to set aside the same.

5 The learned counsel for the petitioner/5th defendant would submit that after completion of trial, after the submission of written arguments, when the matter was posted for judgment, the first respondent/plaintiff filed an application to reopen the plaintiff's side evidence, only with an intention to prolong and protract the proceedings. The first respondent/plaintiff filed the application in I.A.No.578 of 2017, after

clarifying all the ambiguities that has arisen in O.S.No.140 of 2012. Hence the petitioner/5th defendant seeks to set aside the order dated 13.10.2017 made by the learned Principal District Munsif, Cheyyar, Thiruvannamalai District.

6 Heard the learned counsel for the petitioner and perused the materials available on record.

7 The first respondent/plaintiff filed an application to reopen the plaintiff's side evidence in order to clarify certain ambiguities and to substantiate his claim. It is not in dispute that there are two names viz. Ka.Ve.Munisamy and Ka.Pa.Munusamy, which arises ambiguity in the suit and that has to be clarified. Further, as on date, judgment in O.S.No.140 of 2012 has also not yet been pronounced.

8 In the above said circumstances, this Court does not find any illegality or infirmity in the order dated 13.10.2017 made in I.A.No.578 of 2017 in O.S.No.140 of 2012 passed by the learned Principal District Munsif, Cheyyar, Thiruvannamalai District. Hence, the civil revision petition is dismissed. Consequently connected miscellaneous petition is closed.

9 However, since the first respondent/plaintiff has filed the application at the stage when the case was posted for judgment, the petitioner/5th defendant has to be adequately compensated with cost. Hence the first respondent/plaintiff, who is the applicant in I.A.No.578 of 2017 in O.S.No.140 of 2012, is hereby directed to pay a sum of Rs.10,000/- to the petitioner/5th defendant, within a period of one week from the date of receipt of a copy of this order.

10 Further, since it is contended by the petitioner/5th defendant that the first respondent/plaintiff is trying to prolong and protract the proceedings, the learned Principal District Munsif, Cheyyar, Thiruvannamalai, is directed to complete the plaintiff's side evidence on or before 16.04.2018 and thereafter, the counsel for the parties on either side are directed to complete the arguments between 17.04.2018 and 20.04.2018 and further, the learned Principal District Munsif is directed to pronounce the judgment in O.S.No.140 of 2012, on or before 27.04.2018 without fail.

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Index:Yes/No

Note: Issue order copy on 12.04.2018

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P.VELMURUGAN, J.,

cgi

To
The Principal District Munsif,
Cheyyar, Thiruvannamalai District.



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