

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.01.2018

CORAM:

THE HONOURABLE MR. JUSTICE **D. KRISHNAKUMAR**

CRP(PD).No.176 of 2018
and CMP.No.995 of 2018

Shanmugam

.. Petitioner

Vs

1.Rani
2.Devi

.. Respondents

PRAYER

Civil Revision Petition is filed under Section 115 of the Civil Procedure Code against the order dated 24.11.2017 made in IA.No.342 of 2017 in OS.No.100 of 2016 on the file of the Subordinate Judge, Uthangarai.

For Petitioner : Mr.A.S.Narasimhan

ORDER

According to the revision petitioner, the respondents have filed a suit in OS.No.100 of 2016 for partition and permanent injunction. In the aforesaid suit, the revision petitioner has filed written statement on 06.06.2017. In the aforesaid suit, ex-parte order was passed. Pursuant to that, the revision petitioner has filed an

application in IA.No.342 of 2017 to set aside the ex-parte order dated 09.02.2017. After considering the contentions of both the parties, the court below has allowed the application on payment of cost of Rs.5,00/- to be paid on or before 14.12.2017. Challenging the aforesaid order, the revision petitioner has filed the present Civil Revision Petition before this Court.

2. The learned counsel for the revision petitioner would submit that the court below has not considered the fact, in respect of the same property, three suits are instituted, one suit is decreed with wrong parties, another suit is kept pending in spite of admission of the contesting defendants that the petitioners / plaintiffs is entitled to the share claimed by the petitioner and a third suit is pending by wrongly clubbing with some other properties. The court below unnecessarily made the petitioner to attend the court, all the way from Chennai for all the hearings without passing any orders. Therefore, imposing cost for non appearance on the last hearing against the revision petitioner could not be justified. Hence, the order of the court below by imposing cost is liable to be set aside.

3. On perusal of the order of the court below, the

application has been allowed on payment of cost after considering the contentions of the parties. Hence, the grounds raised by the revision petitioner before this Court could not be accepted. Therefore, there is no warrant to interfere with imposing cost on the revision petitioner.

4. Thus, the Civil Revision Petition is dismissed. Consequently, the connected miscellaneous petition is closed. No costs.

23.01.2018

Speaking/Non-Speaking order
Index :Yes/No
Internet:Yes/No
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D. KRISHNAKUMAR J.,

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To

The Subordinate Judge,
Uthangarai



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