

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.01.2018

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

C.R.P.(PD).Nos.3922 to 3924 of 2017

and

C.M.P.No.18329 of 2017

Sarath Kakumanu

.. Petitioner in all CRPs.

Vs.

India Heritage Foundation
Rep.by its Authorised Signatory
Kodandarama Dasa

.. Respondent in all CRPs.

PRAYER in CRP PD.No.3922 of 2017: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decretal order dated 14.06.2017 passed in I.A.No.6204 of 2017 in O.S.No.134 of 2015 on the file of the learned IV Assistant Judge, City Civil Court, Chennai and reopen the case.

PRAYER in CRP PD.No.3923 of 2017: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decretal order dated 14.06.2017 passed in I.A.No.6205 of 2017 in O.S.No.134 of 2015 on the file of the learned IV Assistant Judge, City Civil Court, Chennai and recall the evidence of PW1 for further cross examination.

PRAYER in CRP PD.No.3924 of 2017: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decretal order dated 14.06.2017 passed in I.A.No.6206 of 2017 in O.S.No.134 of 2015 on the file of the learned IV Assistant Judge, City Civil Court, Chennai by setting aside the exparte order dated 10.04.2017.

For Petitioner : Mr.G.V.Sridharan

For Respondent : Mr.S.Veeraraghayan

COMMON ORDER

Aggrieved by the order passed by the trial court in I.A.Nos.6204 to 6206 of 2017 in O.S.No.134 of 2015 filed by the defendant, the plaintiff/respondent herein has filed these Civil Revision Petitions.

2. According to the learned counsel for the petitioner, the respondent/plaintiff has filed the suit in O.S.No.134 of 2015 for permanent injunction. In the aforesaid suit, the plaintiff's side evidence was commenced and posted for cross examination of P.W.1. At that time, the petitioner has not appeared before the trial court on 03.04.2017. Thereafter exparte decree was passed and the same was allowed on payment of cost of Rs.2,500/- to the respondent on or before 07.04.2017. Subsequently, the case was posted on 10.04.2017. On 10.04.2017, the petitioner was present, but the defendant nor his counsel was present on the above said hearing. Hence, the defendant was

called absent and set exparte. Thereafter, the petitioner herein has filed the applications in I.A.No.6204 to 6206 of 2017 in O.S.No.134 of 2015 to set aside the exparte decree passed on 10.04.2017, to reopen and to recall the case for cross examination of P.W.1. The said applications were dismissed on 14.06.2017. At that time, the petitioner herein has filed the civil revision petition in CRP.No.1604 of 2017 before this Court and directed the trial Court to dispose of the suit within a period of six months from the date of receipt of a copy of this Order. The aforesaid application in I.A.Nos.6204 to 6206 of 2017 were dismissed by the Court below. Challenging the aforesaid orders, the petitioner has filed the present civil revision petition.

3. The learned counsel for the petitioner submitted that the petitioner has filed the aforesaid applications for providing opportunity to the respondent to cross examine P.W.1. If the applications are allowed, no prejudice will be caused to the petitioner. Therefore, the order passed by the Court below is liable to be set aside.

4. The learned counsel for the respondent would submit that the revision petitioner only to drag on the proceedings, despite the direction passed by this Court. Hence, he prays for dismissal of this petition.

5. Considering the facts and circumstances of the case, the learned counsel for the respondent strongly objected that conduct of the petitioner as the petitioner is trying to protract the proceedings despite the order of the Court. However, the petitioner undertakes before this Court that he will co-operate to dispose of the said suit. The petitioner has also filed an affidavit before this Court by stating that the petitioner undertakes not to seek any adjournment and co-operate to dispose of the suit in O.S.No.134 of 2015 on the file of the learned IV Judge, City Civil Court, Chennai.

6. In the light of the above, this Court is inclined to pass the following order:

i) The impugned order passed in I.A.Nos.6204 to 6206 of 2017 in O.S.No.134 of 2015 are hereby confirmed. However, cost imposed by the trial Court is modified to the effect that Rs.10,000/- is imposed as cost payable by the petitioner.

ii) The petitioner shall pay a sum of Rs.10,000/- (Rupees Ten thousand only) by way of D.D/Cheque favouring "AKSHYA PATHIRA, HARE KRISHNA MOVEMENT, THIRUVANMIYUR, CHENNAI" within a period of two weeks from the date of receipt of a copy of this order.

failing which, this order shall stand dismissed automatically, without further reference to this Court.

iii) On instructions, both the parties undertakes that they will cooperate to dispose of the suit as directed by this Court in earlier CRP.PD.No.1604 of 2017.

iv) The learned IV Assistant Judge, City Civil Court, Chennai is directed to dispose of the said suit (already direction issued by this Court has expired). Therefore by consent of both parties, the said Court below is directed to dispose of the suit, within a period of three months from the date of receipt of a copy of this order thereafter.

7. This Civil Revision Petitions are allowed with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

12.01.2018

Index: Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
kkd

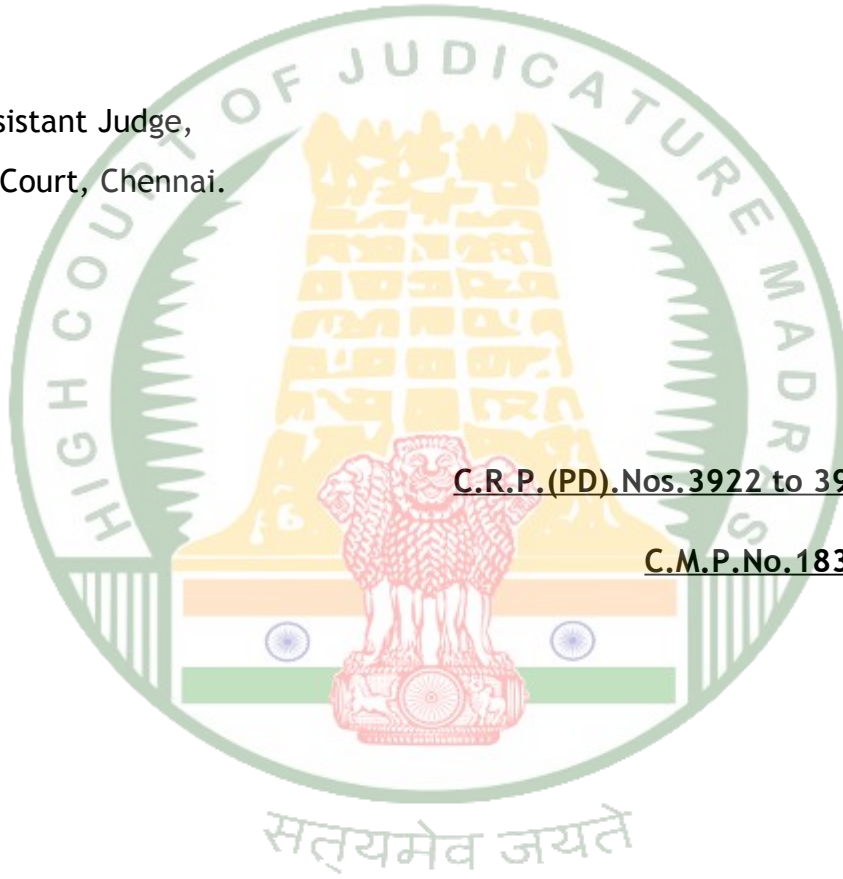
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D.KRISHNAKUMAR,J.

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To

The IV Assistant Judge,
City Civil Court, Chennai.



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