

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.03.2018

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

CRP (PD) No.4215 of 2017
and
C.M.P NO.19754 of 2017

B. Anitha Kumari

... Petitioner

Vs

1. S. Ravi
2. S. Thiyagarajan
@ icehouse Thiyagarajan
3. K.M. Ismail
4. Mahavir Surana
5. M. Rajan
6. The Manager
Bank of India
Asset Recovery Branch
Star House, 1st Floor
No.30 Erabalu Street
Chennai - 600 001.

.. Respondents

PRAYER: This Civil Revision Petition is filed under Section 115 of Code of Civil Procedure, to set aside the fair and decretal order dated 21.08.2017 partly allowing the I.A. No.87 of 2017 in O.S. No.109 of 2010 by the III Additional District Judge, Tiruvallur at Poonamallee.

For Petitioner : M/s.G. Peranban

For Respondents : Mr. S. Vijayandan for R1

Mr. R. Selvakumar for R6

No Appearance for R2 to R5

ORDER

This Civil Revision Petition is filed to set aside the fair and decretal order dated 21.08.2017 partly allowing the I.A. No.87 of 2017 in O.S. No.109 of 2010 by the III Additional District Judge, Tiruvallur at Poonamallee.

2. The 1st respondent filed the suit in O.S. No.109 of 2010 for declaration of title and for recovery of possession against the petitioner. Subsequently, the 1st respondent also filed an Interlocutory Application in I.A. No.87 of 2017, under Section 151 of CPC to issue summons to the petition mentioned witnesses, to examine four witnesses from the list of witnesses. After hearing the contesting parties, the court below allowed the said application, permitting the 1st respondent to examine Advocate Mr.Gurumoorthy and one Mr. Muralikrishnan. The said application was

dismissed, in respect of summoning of 2nd and 3rd defendants. Challenging the said order, the 3rd respondent has filed the present civil revision petition before this Court.

3. The learned counsel for the revision petitioner would submit that filing of an application to examine Advocate Gurumoorthy, who rendered his legal opinion to purchase the suit property by the revision petitioner, is unsustainable in law. In so far as the other witness, if the petitioner chooses to examine the said Muralikrishnan, who is an attesting witness, can be examined on the side of plaintiff's side witness. Therefore, the order of the court below is liable to be set aside.

4. Per contra, the learned counsel for the 1st respondent would submit that the 1st respondent is pressing to examine the said Muralikrishnan and it is not essential to examine Advocate Gurumoorthy to establish the plaintiff's case and disprove the case of the revision petitioner/ 3rd defendant. The learned counsel for the 1st respondent also agreed that Mr. Muralikrishnan can be examined as plaintiff's side witness.

5. Heard the submissions of the learned counsel for the parties and this Court is inclined to pass the following order :-

1. The order passed by the court below, in so far as permitting the plaintiff to examine Advocate Gurumoorthy is set aside. The petitioner is permitted to examine Muralikrishnan, as plaintiff's side witness, in the aforesaid suit. Hence, the order passed by the court below in I.A. No. 87 of 2017 in O.S. No. 109 of 2010 is partly modified.
2. Considering the fact that the suit is of the year 2010, the trial court is directed to dispose of the suit, as expeditiously as possible, preferably on or before 30.07.2018.

6. In view of the above, the Civil Revision Petition is partly allowed to the above extent. Consequently, the connected Miscellaneous Petition is closed. No costs.

WEB COPY

14.03.2018

Index: Yes/ No

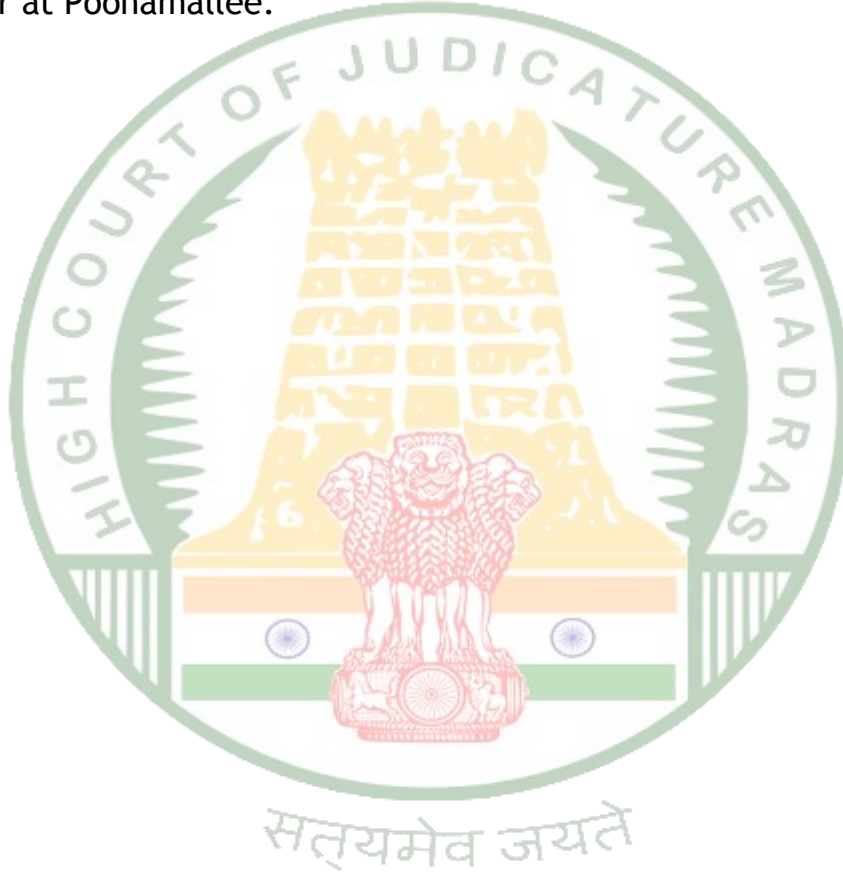
Speaking Order/Non Speaking Order

[Issue order copy on 04.05.2018]

avr

To

The Additional District Judge,
Tiruvallur at Poonamallee.



WEB COPY

D. KRISHNAKUMAR J.,

avr



CRP (PD) No.4215 of 2017
and
C.M.P NO.19754 of 2017

14.03.2018

WEB COPY