

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 11.04.2018

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

C.R.P.(PD)No.4250 of 2017 and
CMP.No.19910 of 2017

S.Balaji

... Petitioner

Vs.

1. A.Chandrasekaran
2. M.Prasanna

...Caveator
... Respondents

Civil Revision Petition has been filed under Article 227 of the Constitution of India against the fair and final order dated 06.07.2017 made in I.A.No.363 of 2016 in O.S.No.160 of 2016 on the file of the Sub Court, Poonamallee.

For Petitioner : Mr.D.Gopinathan
For Respondents : Mr.Ganeshkumar for Mr.Kannan
for R1 Caveator
R2 - Exparte

WEB COPY
ORDER

This civil revision petition has been filed against the order dated 06.07.2017 made in I.A.No.363 of 2016 in O.S.No.160 of 2016 on the file of the Sub Court, Poonamallee.

2 The first respondent/caveator filed a suit in O.S.No.160 of 2016 before the Sub Court, Poonamallee, against the revision petitioner to direct him to pay a sum of Rs.2,71,000/-. Subsequently, the first respondent/plaintiff filed an interlocutory application in I.A.No.363 of 2016 under Order 38 Rule 5 r/w 151 of CPC, to direct the revision petitioner to furnish a security for a sum of Rs.2,71,000/-, in which the revision petitioner has filed his counter.

3 The trial Court, after hearing the arguments advanced on either side, allowed the application in I.A.No.363 of 2016, by an order dated 06.07.2017, directing the revision petitioner to furnish a security for a sum of Rs.2,71,000/- on or before 02.08.2017.

4 Aggrieved against the above said order dated 06.07.2017, the revision petitioner is before this Court with the present civil revision petition.

5 Heard the learned counsel appearing on either side and perused the materials placed before the Court.

6 According to the revision petitioner, he and other started a partnership firm, in which the first respondent is one of the partners. The first

respondent filed a suit against the revision petitioner to pay a sum of Rs.2,71,000/-, which is not maintainable under Section 69 of Indian Partnership Act, since the firm is unregistered partnership firm. Further, first respondent/plaintiff has not shown in the plaint that as to how he has arrived at a figure of Rs.2,71,000/-. Hence the revision petitioner seeks to set aside the order dated 06.07.2017 made in I.A.No.363 of 2016, on the file of the Sub Court, Poonamallee.

7 On a perusal of the records, it reveal that the revision petition and the first respondent are partners and it is an admitted fact that the said firm is unregistered partnership firm. With regard to the dispute of liability of Rs.2,71,000/-, this Court is of the view, that it is the matter for trial to decide the liability to pay the amount. Further, mere furnishing of security for a sum of Rs.2,71,000/- will not prejudice the right of the revision petitioner/1st defendant to put forth his defence during the course of trial.

8 Hence, this Court does not find any illegality or infirmity in the order dated 06.07.2017 passed in I.A.No.363 of 2016, on the file of the Sub Court, Poonamallee.

P.VELMURUGAN, J.,

cgi

9 In the result, the civil revision petition is dismissed by directing the revision petitioner to furnish a security for a sum of Rs.2,71,000/- as ordered by the trial Court, on or before 26.04.2018. Consequently, connected miscellaneous petition is closed. No costs.

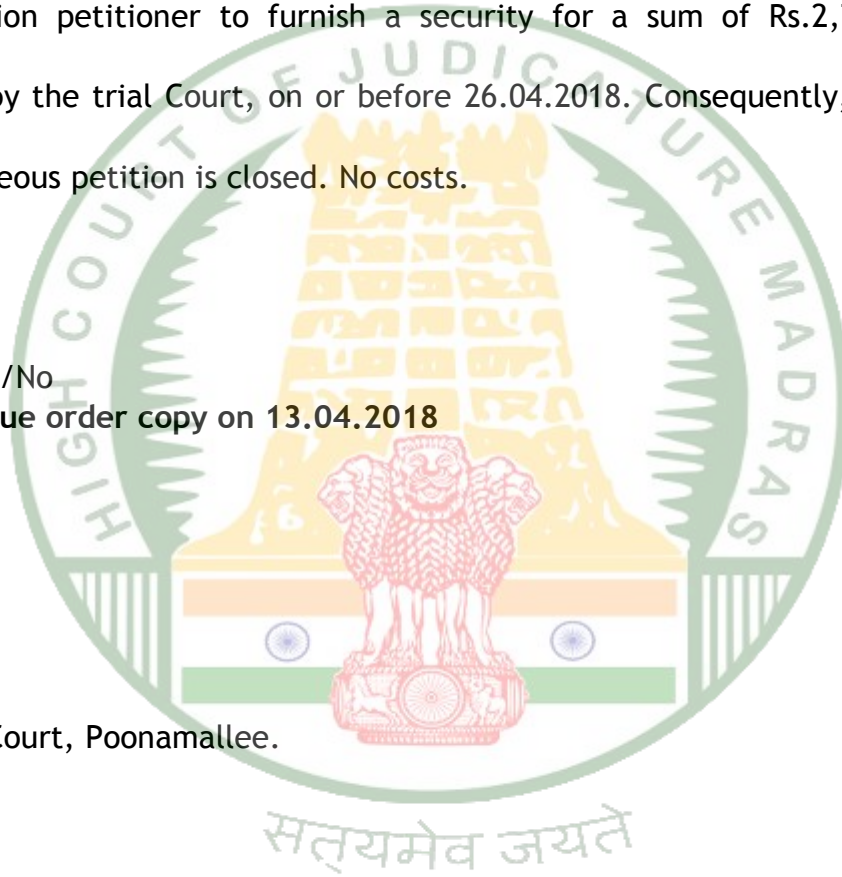
11.04.2018

Index:Yes/No

Note : Issue order copy on 13.04.2018

cgi

To
The Sub Court, Poonamallee.



C.R.P.(PD)No.4250 of 2017 and
CMP.No.19910 of 2017

WEB COPY