

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.01.2018

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

CRP (PD) No. 4699 of 2017
and
C.M.P NO. 22103 of 2017

Arunachalam

.. Petitioner

Vs

1. Minor Rekha
2. Ramaraj
3. Jayachandran

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order and decretal order dated 18.08.2017 made in I.A. No. 247 of 2016 in O.S. No.29 of 2007 passed by the Subordinate Judge, Panruti and allow the revision petition.

For Petitioner : Mr. S. Ganesh

ORDER

This revision petition arises against the order and decretal order dated 18.08.2017 made in I.A. No. 247 of 2016 in O.S. No.29 of

2007 passed by the Subordinate Judge, Panruti.

2. The learned counsel for the petitioner would submit that the application filed under Order XXXII Rule 15 of CPC, has been filed by the 1st respondent, seeking to permit the mother of the 1st respondent to contest the case on behalf of her. According to the petitioner, the court below has not appreciated the case of the petitioner. It is specifically stated that the plaintiff / 1st respondent was suffering from “dyslexia”. The court below has accepted the medical certificate produced by the respondents, without marking the said certificate. Thus, the court below has erroneously dismissed the petition. Hence, the present revision has been filed before this Court.

3. Per contra, the learned counsel for the respondents strongly objected stating that on the basis of the certificate issued by the Regional Medical Board, Rajiv Gandhi Government General Hospital, Chennai-3. Therefore, there is no warrant to interfere with the order of the court below.

4. During the course of arguments, the learned counsel for the petitioner would submit that to resolve the dispute among the parties, the plaintiff can very well appear before the Medical Board, to decide the issue involved in the present application. In view of the said contention of the revision petitioner, learned counsel for the respondents may not have any serious objection to consider the said request of the petitioner.

5. Therefore, in the light of the above submissions, this Court is inclined to pass the following orders :-

1. The order dated 18.08.2017 made in I.A. No. 247 of 2016 in O.S. No.29 of 2007 passed by the Subordinate Judge, Panruti is set aside and the case is remanded to the court below, to be considered afresh.
2. As per the submission, the petitioner is permitted to file appropriate application before the court below in the I.A. No. 247 of 2016.
3. On receipt of such application, the trial court is directed to pass appropriate orders, directing the plaintiff to appear before the

Medical Board.

4. On receipt of the report from the Regional Medical Board, the court below shall pass appropriate orders in the instant Interlocutory Application.

6. The Civil Revision Petition is allowed, with the above observation. Consequently, the connected Miscellaneous Petition is closed. No order as to costs.

10.01.2018

Index : Yes/ No

Speaking order/ Non speaking order

avr

To

The Subordinate Judge
Panruti.

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D. KRISHNAKUMAR J.,

avr



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