

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :09.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

CRP (NPD)No.4748 of 2017

1.Dhanalakshmi
2.V.Saraswathi

.. Petitioners

Vs

Kovai Mavatta Kulalar Mandram
Rep.by its Secretary,
LIC Marudhachalam,
Door No.59, Uppaliyar Street,
Singanallur, Coimbatore 641 005.

.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the rejection order dated 14.07.2017 made in unnumbered I.A.No. Of 2017 in O.S.No.1077 of 2010 on the file of IV Additional District Munsif Court, Coimbatore.

For Petitioners : Mr.R.Shase

ORDER

The petitioner has filed this Civil Revision Petition to set aside the order passed by the learned IV Additional District Munsif, Coimbatore, in Unnumbered I.A in O.S.No.1077 of 2010 dated 14.07.2017.

2. According to the petitioner, the first respondent/plaintiff

herein has filed a suit in O.S.No.1077 of 2010 on the file of the learned IV Additional District Munsif, Coimbatore seeking permanent injunction. The revision petitioners have filed the application in unnumbered I.A.No. of 2017 in O.S.No.7424 of 2012 for counter claim under Order VIII Rule 6 (A) r/w Section 151 of C.P.C. The said application was filed on 14.07.2017 and on that day, the suit in O.S.No.1077 of 2010 was dismissed as not pressed. Hence the said application was rejected by the Court below in the unnumbered stage. Challenging the order of the rejection, the petitioner has filed the present civil revision petition before this Court.

3. The learned counsel for the petitioner would submit that the counter claim has been filed against the suit. He would further submit that the counter claim is maintainable under Order VIII Rule 6A, 6D of the Civil Procedure Code.

4. Considering the submissions made by the learned counsel for the petitioner without deciding on merits, this Court is inclined to pass the following orders:

- i) the impugned order in unnumbered I.A.No. /2017 in O.S.No.1077 of 2010 on the file of the learned IV Additional Munsif, Coimbatore, is liable to be set aside.

ii) The Court below is directed to number the I.A. if it is in order, subject to the maintainability of the counter claim and the same shall be decided at the time of hearing the application, after affording an opportunity to the respondent.

iii) After numbering the I.A., the court below is directed to dispose of the application on merits and in accordance with law,

With the above observation, this Civil Revision Petition is allowed.

No costs.

kkd

Index : Yes/No

Internet : Yes/No

Speaking Order/Non-speaking Order

To

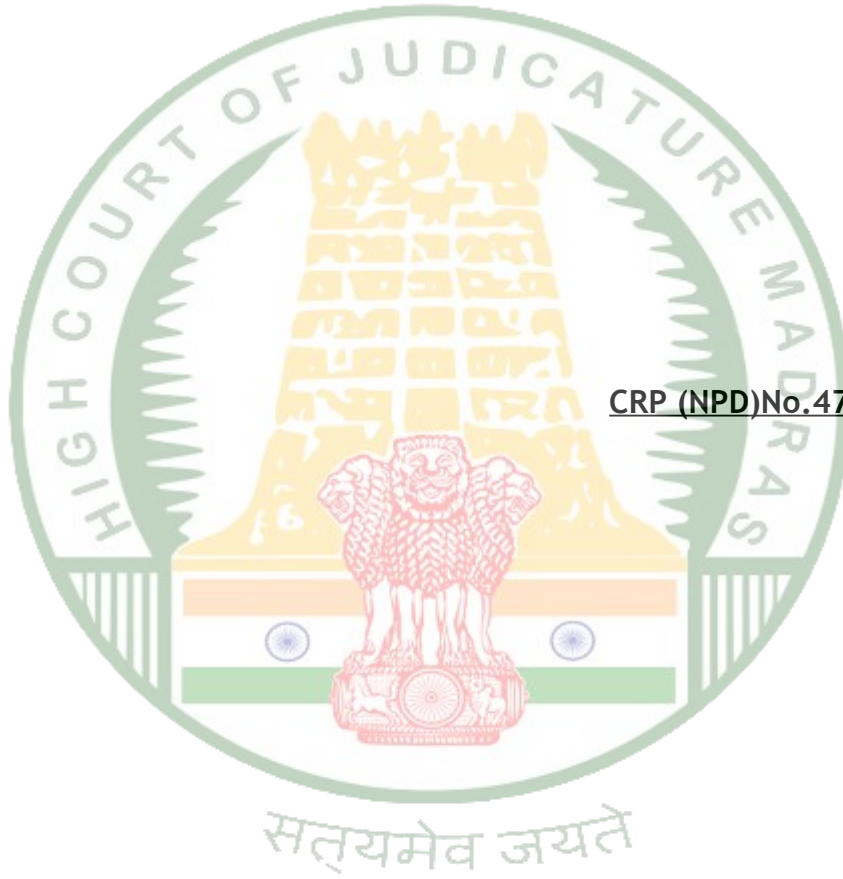
IV Additional District Munsif Court,
Coimbatore.

09.01.2018

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D.KRISHNAKUMAR,J.

kkd



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