

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

MONDAY, THE 09TH DAY OF APRIL 2018

THE HON'BLE MR. JUSTICE N.SATHISH KUMAR

A. No.2193 of 2018
in
C.S. No.573 of 2016

C.S. No.573 of 2016 :-

Dr.T.G.Palanivelu,
Annai Velankanni Street,
Kamarajar Nagar,
Pondicherry-11.

... Plaintiff

-Versus-

M/s.Ponmalligai Hospital,
rep. by its Director,
Mrs.Usha Maruthu,
W/o.Maruthupandian,
No.1, First Main Road,
Kakkan Nagar, Adambakkam,
Chennai-600 088.

... Defendant

A. No.2193 of 2018:-

M/s.Ponmalligai Hospital,
rep. by its Director,
Mrs.Usha Maruthu,
W/o.Dr.Maruthupandian,
No.1, First Main Road,
Kakkan Nagar, Adambakkam,
Chennai-600 088.

... Applicant/Defendant

-Versus-

Dr.T.G.Palanivelu,
No.16, Annai Velankanni Street,
Kamarajar Nagar,
Pondicherry-11.

... Respondent/Plaintiff

Application praying that this Hon'ble Court be pleased to allow the appeal and set aside the order of the Learned Master passed in A. No.4102 of 2017 in A. No.1594 of 2017 in Summary Suit No.573 of 2016 dated 06.02.2018.

This application coming on this day before this court for hearing the court made the following order:-

This application is filed to allow the appeal and to set aside the order of the Learned Master passed in A.No.4102 of 2017 in A.No.1594 of 2017 in C.S.No.573 of 2016 dated 06.02.2018, wherein the learned Master rejected the additional affidavit of the applicant. Challenging the same, the present application is filed.

2.It is the contention of the learned counsel appearing for the applicant that he has raised the main issues in additional affidavit questioning the jurisdiction of this Court. The learned Master without considering anything, simply dismissed the application, though the additional affidavit is very much essential for the application filed to leave to defend the same under Order 37, the application is dismissed mistakenly by the Learned Master.

3.Heard the learned counsel on either side.

4.When perused the additional affidavit filed by the applicant/ appellant, he has raised mainly the jurisdictional issue. The main contention of the

applicant/appellant is that the suit property is situated outside the jurisdiction of this Court and hence the suit is not maintainable. It is curious to note that the same applicant for appellant has filed revocation application in A.No.5089 of 2017 against the leave granted by this Court. This Court, after considering the entire facts, dismissed the application keeping in mind that the suit itself is filed only for the recovery of money and taken note of the earlier proceedings between the parties in RCOP.No.2072 of 2008, RCOP No.559 of 2010 and O.S.No.6056 of 2010, which is also pending before the City Civil Court, Chennai.

5.Admittedly, the suit is for recovery of money namely the arrears of rent amount. In fact, it is not in dispute that the same allegations of the applicant / appellant was already rejected by this Court in its order dated 28.11.2017.

6.These facts clearly indicate that the intention of the appellant is only to protract the proceedings somehow or other to defeat the available right already accrued by way of adjudication in the rent control proceedings.

7.Hence, I am of the view that the application filed seeking permission to file an additional affidavit before

the Master is only to protract and defeat the rights of the plaintiff. Hence, I do not find any illegality in the order passed by the learned Master in dismissing the application.

8. Accordingly, the appeal is dismissed. Post the A.No.1594 before the learned Master for expeditious disposal on 20.04.2018.

Sd/. N.S.K.J

09.04.2018

//Certified to be a true copy//
Dated this the day of 2018

JJ 28/04.2018

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.