

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.01.2018

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

CRP (PD) No. 36 of 2018
and
C.M.P. No.106 of 2018

1. C. V. Muthusamy
2. K. Geetha

.. Petitioners

Vs

- K. Kandasamy (died)
K. Muniammal (died)

1. K. Santhamani
2. K. Rajkumar

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order dated 09.10.2017 passed in I.A. No. 524 of 2017 in O.S. No. 22 of 2010 on the file of the District Munsif Court, Paramathi and pass further orders.

For Petitioners : Mr. R. Ezhilarasan

For Respondents : Mr. P. Valliappan

ORDER

This revision petition is filed to set aside the order dated 09.10.2017 passed in I.A. No. 524 of 2017 in O.S. No. 22 of 2010 on the file of the District Munsif Court, Paramathi.

2. The revision petitioners have filed an application under Order III Rule 2 of Code of Civil Procedure. The first petitioner represents the suit by way of Power of Attorney, executed by the second petitioner/ second plaintiff. The petitioners/ plaintiffs have filed the application, in the affidavit filed in support of the petition, the first petitioner/ first plaintiff has given the reasons for representing the suit on behalf of the second plaintiff. The said application has been erroneously dismissed by the court below. Therefore, the present revision petition is filed, before this Court.

3. According to the petitioners, the court below without passing a reasoned order has rejected the claim of the petitioner and therefore the order of the court below is liable to be set aside.

4. Per contra, the learned counsel for the respondents would submit that the respondents have filed objection before the court below, specifically stating that the said application is not maintainable on the ground that it is a forgery and the same is not registered under the provisions of Section 17 of the Amended Registration Act, 1908. Therefore, there is no warrant to interfere with the order of the court below.

5. Considered the submission of the learned counsel for the parties and perused the order passed by the court below. The case of the petitioners is that although the second plaintiff has executed power in favour of the first plaintiff/ first revision petitioner, the court below has not considered the reasons stated in the affidavit and has passed a cryptic order instead of passing a speaking order. Therefore, the order of the court below is liable to be set aside on the ground that no reasoned order has been passed by the trial court.

6. In view of the above, this Court has no hesitation to set aside the order dated 09.10.2017 passed in I.A. No. 524 of 2017 in O.S.

D. KRISHNAKUMAR J.,

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No. 22 of 2010 and remand the matter to the District Munsif Court, Paramathi, to be decided afresh, after providing opportunity to the parties concerned.

7. The Civil Revision Petition is allowed, with the above direction. Consequently, the connected Miscellaneous Petition is closed. No costs.

10.01.2018

Index : Yes/ No

Speaking order/ Non speaking order

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To

The District Munsif Court,
Paramathi.

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