

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 26.07.2018

CORAM

THE HONOURABLE Mr.JUSTICE P.RAJAMANICKAM

S.A.No.1034 of 2002

and

C.M.P.Nos.8197 of 2002 and 3799 of 2004

and

Cross.Objection.No.17 of 2004

S.A.No.1034 of 2002

J.Rani Ammal

... Appellant/Plaintiff

Vs.

1. Kanna Mandiri
2. K.Raghu Naicker
3. K.Harikrishnan Mandiri
4. G.Narayanasamy Naicker
5. R.Jayapal Mandiri ... Respondents/Defendants
(R2 to R5 Set ex-parte)

Cross.Objection.No.17 of 2004

Kanna Mandiri ... Cross Appellant/Respondent No.1

1. J.Rani Ammal ... Respondent No.1/Appellant

2. K.Raghu Naicker
3. K.Harikrishnan Mandiri
4. G.Narayanasamy Naicker
5. R.Jayapal Mandiri ... Respondents 2 to 5/
Respondents 2 to 5

(Notice dispensed with for respondents
2 to 5 vide order dated 20.07.2018)

PRAYER in S.A.No.1034 of 2002: Second Appeal filed under Section 100 of C.P.C., aggrieved against the Judgment and decree dated 31.10.2001 and made in A.S.No.33 of 1999 on the file of Principal District Judge, Vellore, reversing the Judgment and decree dated 30.10.1998 and made in O.S.No.1039 of 1993 on the file of Principal District Munsif, Vellore.

PRAYER in Cross.Objection. No.17 of 2004: This Cross objection has been filed to set aside the Judgment and decree in so far as the award of cost in the A.S.No.33 of 1999 and in the Cross Appeal by the Principal District Judge.

For Appellant :Ms.A.B.Reehana Begum
for T.R.Rajaraman (in S.A.1034/2002)

For 1st Respondent : Mr.P.Jagadeesan for R1
(in S.A.1034/02)

Respondents 1 & 2: Set exparte vide order dated 20.07.2018 made in S.A.1034 of 2002.

For Appellant : Mr.P.Jagadeesan
(in Cross Objection 17/2004)

For 1st Respondent:Ms.A.B.Reehana Begum
for T.R.Rajaraman
(in Cross Objection 17/2004)

JUDGMENT

The learned counsel for the appellant has reported no instructions for the appellant. The appellant called absent. Hence, the second appeal is dismissed for default. No costs. Consequently, Connected miscellaneous petitions are closed.

2. In so far as Cross Objection is concerned, the first respondent has filed Cross Objection, challenging the portion of the decree of the First Appellate Court which directed the first respondent to pay costs to the appellant.

3. The learned counsel for the first respondent has submitted that based on Ex.B.1 which was marked before the First Appellate Court, the First Appellate Court has modified the decree passed by the Trial Court and in such a case, the First Appellate Court ought not to have awarded costs. Considering his submissions, the Cross Objection is allowed. The part of the decree by the First Appellate Court, directing the first respondent to pay costs to the appellant alone is set aside. In other aspects, the decree passed by the First Appellate Court is confirmed.

सत्यमेव जयते

s/d-

Assistant Registrar(CS-V)

True Copy

Sub-Assistant Registrar

Vv

To

1. The Principal District Judge,
Vellore.

2. The Principal District Munsif,
Vellore.

3. The Section Officer,
V.R., Section,
High Court, Madras

+1 CC to Mr.P. Jagadeesan, Advocate sr 50291.

S.A.No.1034 of 2002

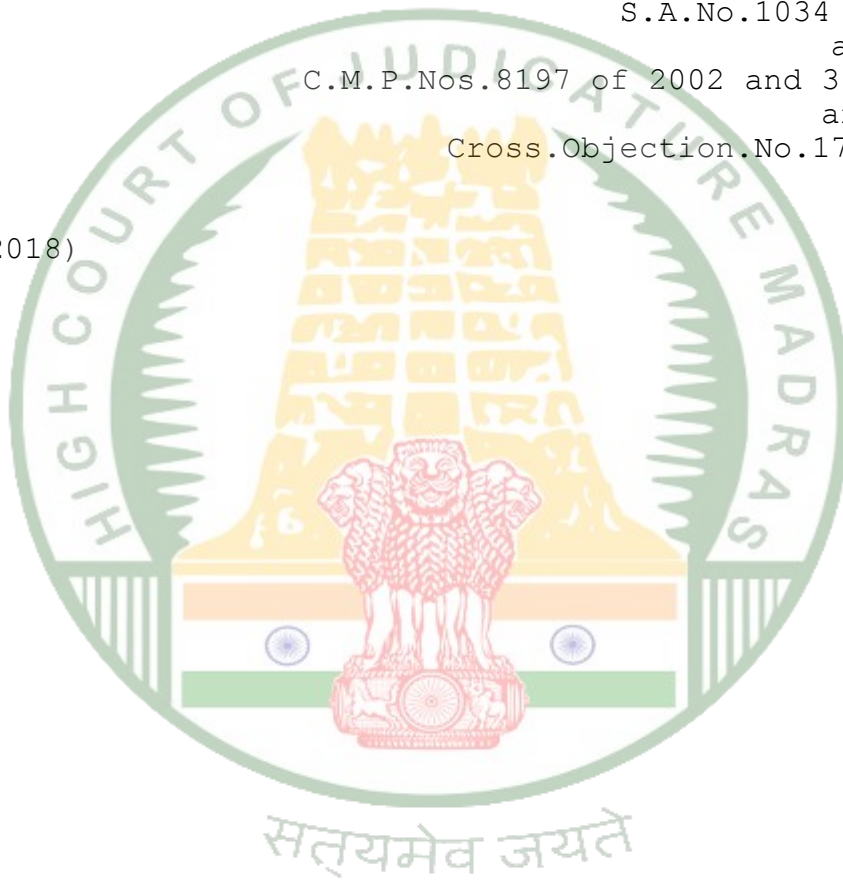
and

C.M.P.Nos.8197 of 2002 and 3799 of 2004

and

Cross.Objection.No.17 of 2004

RSI (CO)
SP(17/09/2018)



WEB COPY