

O.S.A.Nos.352 to 354 of 2018
and
C.M.P.Nos.15257 to 15259 of 2018

N.KIRUBAKARAN, J.
and
ABDUL QUDDHOSE, J.

(Order of the Court was made by N.Kirubakaran, J)

The matter has been brought before this Court by way of being mentioned. Mr.J.Barathan, learned counsel would submit that he appears only for the 1st respondent and not for the 2nd respondent. Moreover, there is a conflict of interest between the 1st and the 2nd respondents and therefore, in the appearance column it should be mentioned as Mr.J.Barathan, learned counsel for the 1st respondent.

2.It is stated that in paragraph 6 of the order passed in O.S.A.Nos.352 to 354 of 2018 dated 09.11.2018 it has been mentioned as follows:

“6.We are convinced with the said order as it is a balanced order passed by the learned Single Judge. All the three prayers sought for by the 1st respondent are agreed by the appellants and the only grievance with regard to the direction to deposit the amount, has already been pointed out that without prejudice, the appellants have come forward to deposit the amount. Secondly, there is a prayer of counter claim for damages. Therefore, taking into consideration, the possession of the suit property by the appellants, the learned Single Judge rightly directed the appellants to deposit a sum of Rs.1,00,000/-

before the Court without prejudice to the rights of the parties. It is the discretion exercised by the learned Single Judge to safeguard the rights of the parties. This apart, the 1st respondent has given an undertaking that she would not withdraw the amount. Even otherwise, if the amount is going to be deposited, the appellants are entitled to withdraw the amount.”

The learned counsel for the 1st respondent would submit that the appellants are entitled to withdraw the amount, if the appellants succeed in the proceedings. Even though the learned counsel for the 1st respondent would submit that they are entitled to withdraw the amount, if they succeed in the original proceedings, it goes without saying that the appellants are entitled to withdraw the amount which the appellants have deposited, if they succeed finally in the proceedings. Therefore, the order is clarified that the appellants are entitled to withdraw, in case, they succeed in the proceedings finally. The amount already deposited is directed to be deposited in the interest bearing fixed deposit, so that whichever party wins the proceedings would get the money along with interest.

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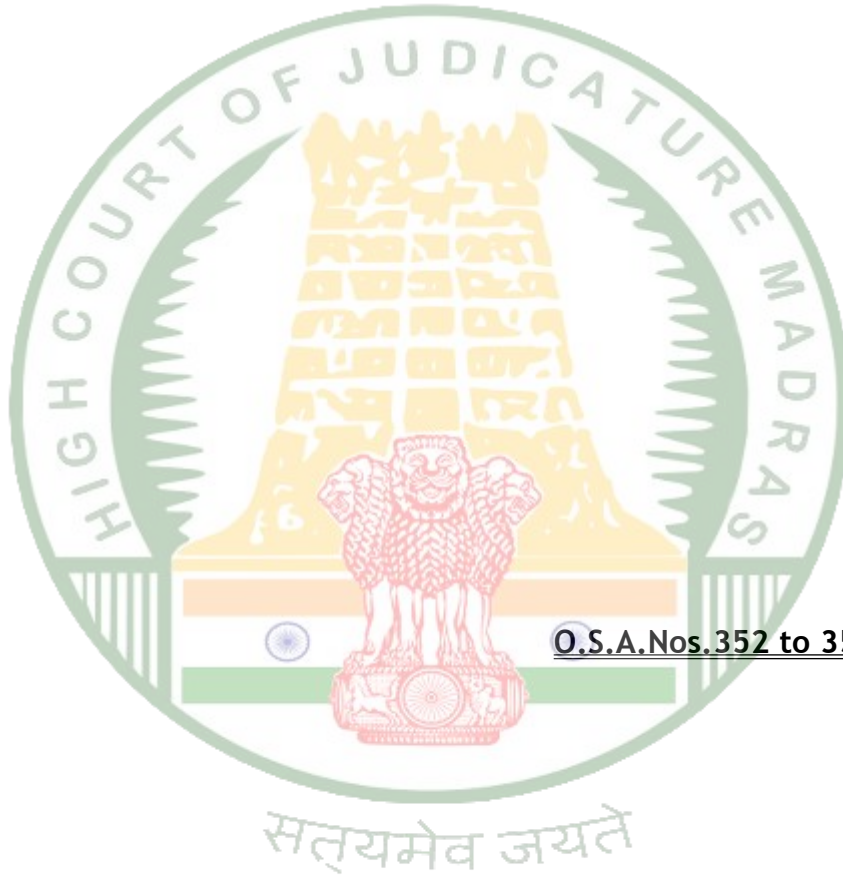
(NKKJ) (AQJ)
17.06.2019

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Note: Registry is directed to issue fresh order copy.

N.KIRUBAKARAN, J.
and
ABDUL QUDDHOSE, J.

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