

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

C.R.P. (PD) No. 3696 of 2018

and

C.M.P. No. 20564 of 2018

P.Nalini

...Petitioner

Vs

M.Savithiri

...Respondent

Prayer: Civil Revision Petition filed Under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 14.09.2018 in I.A.No.1624 of 2018 in O.S.No.10 of 2016 on the file of the IV Additional District Court, Erode at Bhavani.

For Petitioner : Mr.K.J.Parthasarathy

For Caveator : Ms.S.Yogalakshmi
for Mr.M.Guruprasad

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ORDER

By consent of both the counsels, the civil revision petition is taken up for final disposal.

2. The petitioner herein is the 3rd defendant in the suit. The order under challenge in the present application is one under Order 9 Rule 7 of CPC to set aside the ex-parte order passed in 24.02.2017 and to receive the statement. It is seen that along with the ex-parte order, the petitioner herein had also produced the written statement.

3. Today, when the matter was called, the learned counsel for the petitioner submitted that though he had assigned certain reasons for not filing the written statement within time, the same was not properly appreciated by the trial Court.

4. The learned counsel for the Caveator on the other hand submitted that in view of the delay in filing the written statement, as well as the filing of the present civil revision petition before this Court, they have been put to serious prejudice causing unnecessary liabilities to them.

5. Though the learned counsel for the Caveator does not seem to have serious objections with regard to allowing the petitioner to file the written statement, the prejudice caused to the respondent seems to be of their concern.

6. In my view, if a cost is imposed on the petitioner, the ends of justice would be secured. In view of the fact that the respondent herein does not have any serious objections in permitting the petitioner to file the written statement at this stage, the order dated 14.09.2018 passed in I.A.No.1624 of 2018 in O.S.No.10 of 2016 is set aside and consequently, the trial Court is called upon to take up the written statement of the 3rd defendant on file.

7. The ex-parte order passed against the 3rd defendant dated 24.02.2017 is set aside. The petitioner is also directed to pay a sum of Rs.10,000/- by way of cash to the respondent herein within 2 weeks from the date of receipt of copy of this order.

8. Accordingly, the civil revision petitioner stands allowed in the above terms. Consequently, connected miscellaneous petition is closed.

22.11.2018

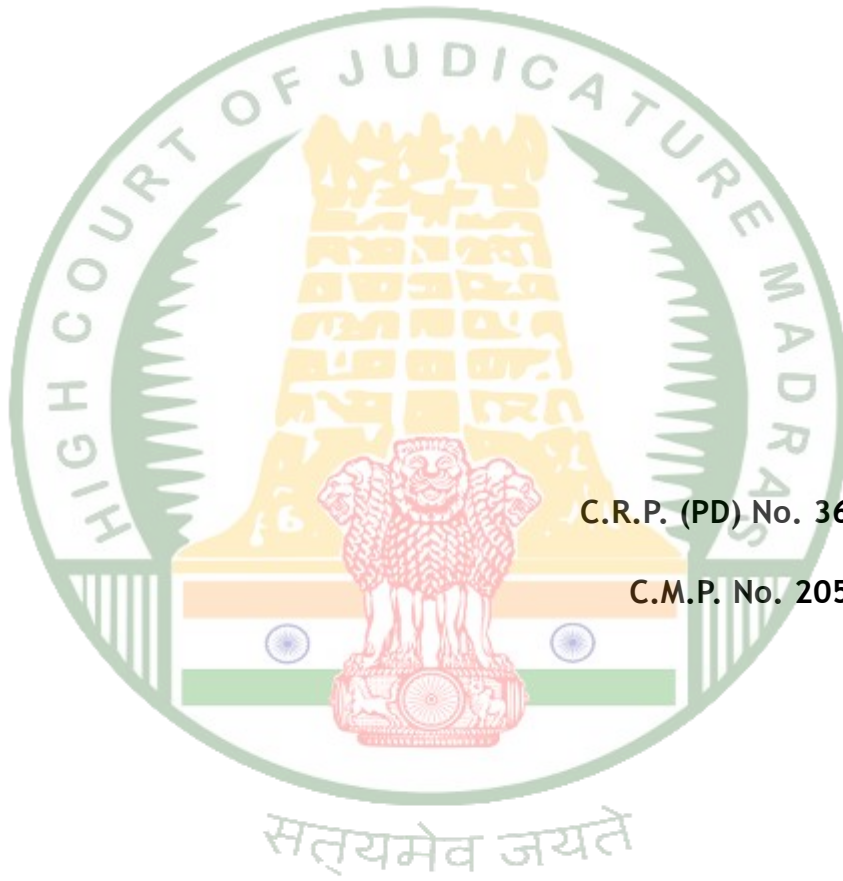
Index:Yes/No
Speaking Order: Yes/No
hvk

To
The IV Additional District Judge,
Erode, Bhavani.

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M.S.RAMESH.,J

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