



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.03.2018

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P. (PD) (MD) No.593 of 2018

and

C.M.P. (MD) No.2645 of 2018

Palanivel ... Petitioner / 1st Respondent /
Plaintiff

vs.

1.P.Balakrishnan ... 1st Respondent / Petitioner /
Proposed Party

2.Sudhakar

3.Kadhar Basha

... Respondents 2 & 3 /
Respondents 2 & 3 /Defendants

PRAYER: Petition filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 10.07.2017 passed in I.A.No.217 of 2016 in O.S.No.326 of 2016 on the file of the Subordinate Judge, Thuraiyur.

For Petitioner : Mr.R.Nandakumar

ORDER

This Civil Revision Petition has been filed challenging the order passed by the learned Subordinate Judge, Thuraiyur, in I.A.No.217 of 2016 in O.S.No.326 of 2016 dated 10.07.2017.

2. The facts of the case are that the petitioner herein, as plaintiff, has filed the suit in O.S.No.326 of 2016 before the Sub Court, Trichy camp at Thuraiyur, against the respondents 2 & 3 herein, for the relief of injunction. According to the petitioner, pending suit proceedings, the first respondent herein, as petitioner, has filed an interlocutory application in I.A.No.217 of 2016 under Order I Rule 10 and Section 151 of the Civil Procedure Code, to implead him as a party. The Trial Court, by order dated 10.07.2017, has allowed the petition, against which, the present petition came to be filed.

3. The learned Counsel for the petitioner would submit that the petitioner has filed his counter as early as on 26.04.2017.



Despite the same, the learned Judge, stating that counter was not filed, has passed the impugned order, thereby, allowed the impugned petition.

4. Heard the learned Counsel appearing for the petitioner. Notice to the respondents is dispensed with.

5. Perusal of the impugned order dated 10.07.2017, would show that the learned Judge has passed a one line order, which reads thus:

"Sufficient time given. Counter not filed. Hence this petition is allowed."

However, perusal of the typed set of papers would show that the petitioner herein has filed his counter as early as on 26.04.2017. Without considering the same, the learned Judge, by oversight, has passed the impugned cryptic order, which, in my considered opinion, needs interference.

6. In result, this Civil Revision Petition is allowed and the impugned order dated 10.07.2017 is set aside and the matter is remitted back to the learned Subordinate Judge, Thuraiyur, for fresh consideration, who, in turn, shall consider the counter filed by the respective parties and pass fresh orders, after giving opportunity to all the parties concerned, on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To

The Subordinate Judge,
Thuraiyur.

+ 1 cc TO Mr.R.Nandakumar , Advocate in SR No. 56151

gk

AE/SV MMS/SAR4/02.04.2018/2P/3C

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