



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.04.2018

CORAM :

WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

REV. APLC. (MD)No.39 of 2018

Chandrasekaran
rep. by his Power Agent
Sathyamoorthy

... Petitioner/1st respondent

Vs.

1.Devaki
2.O.M.S.Natarajan
3.O.M.S.Ganesan
4.O.M.S.Sabasivam
5.Saroja
6.Nagarethinam
7.Madhavi @ Madhavalakshmi

...1st respondent/Petitioner

... Respondents 2 to7/Respondents 2 to 7

PRAYER : Review Application filed under Order 47 Rule 1 and 2 r/w. Section 114 of the Civil Procedure Code, against the Judgment and Decree, dated 14.02.2018, passed in Civil Revision Petition in CRP.(MD)No.2749 of 2015 on the file of this Court.

Prayer in CRP(MD) . 2749/ 2015 :

Civil Revision Petition filed under Article 227 of Constitution of India, to setting aside the fair and decreetal order dated 01.09.2015 passed in IA No.75/15 OS.No.38/2013 on the file of the III Additional District Court, Pattukottai.

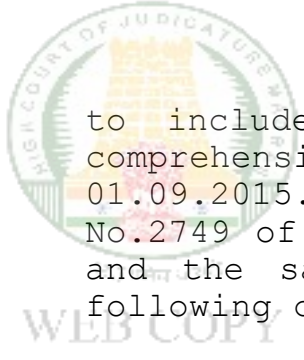
For Petitioner : Mr.K.P.Narayankumar
For Respondents : Mr.T.R.Jeyapalam - for R1

ORDER

This review application has been filed by the first respondent in the revision petition / 7th defendant as against the order passed in CRP.(MD)No.2749 of 2015, dated 14.02.2018.

2. Heard both sides and perused the available records carefully.

3. The suit was filed for partition by the 1st respondent herein as plaintiff. The Interlocutory Application in I.A. No.75 of 2015 in O.S.No.38 of 2013 was filed by the review petitioner seeking



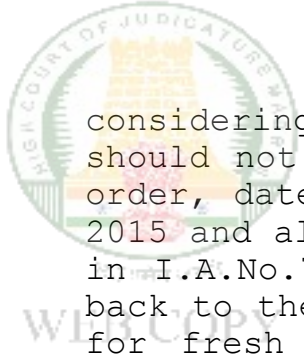
to include the petition mentioned properties in the suit for comprehensive adjudication, which was allowed by the Trial Court on 01.09.2015. Questioning the correctness of the said order, CRP(MD) No.2749 of 2015 came to be filed by the 1st respondent / petitioner and the same was allowed by this Court on 14.02.2015 with the following observation :

"6. According to the revision petitioner / plaintiff, the petition mentioned properties are his separate properties and therefore, the same cannot be included in the suit for partition. As there is no connection between the relief sought for by the revision petitioner / plaintiff and the petition mentioned properties, and the said properties are stated to be separate properties of the revision petitioner / plaintiff, the petition mentioned properties cannot be included in the present suit for a comprehensive adjudication. If the 1st respondent / 7th defendant is aggrieved, he has to file a separate suit. Without considering the above aspects, the Court below has erroneously allowed the interlocutory application filed by the 1st respondent / 7th defendant and hence, the order impugned in this revision petition is liable to be set aside and accordingly set aside."

4. The learned counsel for the review applicant submitted that when the matter came up for hearing on 14.02.2018, the learned counsel for the 1st respondent / revision petitioner represented that the Court below has passed a cryptic order and that this Court also, after perusing the order passed by the Court below, has suggested to remand the matter for fresh consideration, without hearing the merits of the matter, as the order was a cryptic order. While so, this Court, discussing the merits of the matter, straight away set aside the order passed by the Court below and not remanded back the matter. Therefore, a fair opportunity of the review applicant / 1st respondent is deprived. After getting copy of the order, when it was mentioned before this Court, this Court directed to file a review application and therefore, he has filed this review application. Thus, he requested to remand the matter for fresh consideration by allowing this review application.

5. The learned counsel appearing for the 1st respondent / petitioner would submit that as rightly stated by the learned counsel for the review applicant, this Court has decided to remand back the matter and therefore, after setting aside the order passed by the Court below, the matter may be remanded back for fresh consideration.

6. Considering the above submissions of the learned counsel for both sides and also considering the fact that the Court below has passed a cryptic order without any discussion and also



considering the fact that an opportunity of the review applicant should not be deprived of, this Court is inclined to set aside the order, dated 14.02.2018, passed by this Court in CRP(MD) No.2749 of 2015 and also the order passed by the Court below, dated 01.09.2015, in I.A.No.75 of 2015 in O.S.No.38 of 2013 and remanded the matter back to the file of the III Additional District Judge, Pattukottai, for fresh consideration. Without being influenced by any of the observations made by this Court in the revision order, the Court below is directed to dispose of the said I.A. on merits and in accordance with law, after considering all the material documents produced / to be produced by the respective parties, within a period of four weeks from the date of receipt of a copy of this order.

7. Accordingly, this Review Application is allowed. No costs.

Sd/-
Assistant Registrar(T&P)

/True copy/

Sub Assistant Registrar

To

1.The III Additional District Judge,
Pattukottai.

2.The Record Keeper, **(2 Copies)**
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

+1CC TO M/S.K.P.NARAYANAKUMAR, ADVOCATE, SR NO.60419

REV. APLC. (MD) No.39 of 2018
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gcg

MS/SV-MMS/SAR-3/19.04.2018/3P.5C