



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.07.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

C.R.P. (PD) (MD) No.1098 of 2015

and

M.P (MD) No.1 of 2015

Thilagam

... Petitioner/Petitioner/2<sup>nd</sup> Plaintiff

Vs.

1.D.Yuvarajbalan

2.D.Duraikumarasamy

3.Syndicate Bank by its Branch  
represented by its Branch Manager,  
Karur.

4.D.Saraswathi

... Respondents/Respondents/

Defendants 4<sup>th</sup> Respondent/

(1<sup>st</sup> plaintiff to be transposed as 4<sup>th</sup> defendant)

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the Fair and Decreetal order, dated 10.12.2014 in I.A.No.522 of 2013 in O.S.No.134 of 2010, on the file of the Additional Subordinate Judge, Karur.

For Petitioner

: Mr.K.Govindarajan  
for Mr.R.Murali

For R1 & R2

: Mr.K.Balasubramani

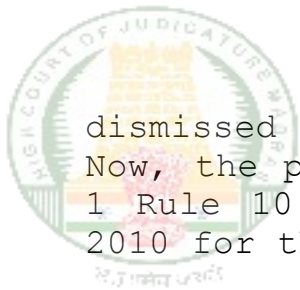
For R3 & R4

: No appearance

### O R D E R

This Civil Revision Petition has been filed praying this Court to set aside the Fair and Decreetal order, dated 10.12.2014 in I.A.No.522 of 2013 in O.S.No.134 of 2010, on the file of the Additional Subordinate Judge, Karur.

2.The petitioner/2<sup>nd</sup> plaintiff has filed a suit against the respondents in O.S.No.134 of 2010 before the Additional Sub Court, Karur, for declaration. Pending suit, the petitioner has filed an application in I.A.No.535 of 2012 praying to transpose the first plaintiff as 4<sup>th</sup> defendant in the suit and the said application was



dismissed for default on 10.09.2013 due to non-payment of batta. Now, the petitioner has filed the present application under Order 1 Rule 10(2) of C.P.C., in I.A.No.522 of 2013 in O.S.No.134 of 2010 for the very same prayer.

3.The learned counsel appearing for the respondents 1 & 2 would submit that once the petitioner invoking the provision under Order 1 Rule 10(2) of C.P.C., in I.A.No.535 of 2012, which was dismissed for default, without restoring the said application, the petitioner has filed the present application in I.A.No.522 of 2013. Therefore, the learned Judge has rightly dismissed the application.

4.Heard the learned counsel appearing for the petitioners and the learned counsel appearing for the respondents 1 & 2 and perused all the materials available on record.

5.A reading of the order passed in I.A.No.522 of 2013, the learned Judge has clearly mentioned that the earlier application filed by the petitioner in I.A.No.535 of 2012 was already dismissed for default on 10.09.2013 and therefore, the petitioner has no right to proceed this present application in I.A.No.522 of 2013. Therefore, there is no irregularity or illegality in the said order warranting interference by this Court.

6.Accordingly, this Civil Revision Petition is dismissed by confirming the order passed in I.A.No.522 of 2013 in O.S.No.134 of 2010, dated 10.12.2014. The petitioner is at liberty to restore the I.A.No.535 of 2012, which was dismissed for default on 10.09.2013. No costs. Consequently, connected miscellaneous Petition is also dismissed.

Sd/  
Assistant Registrar(RTI)

/True copy/

Sub Assistant Registrar

To

The Additional Subordinate Judge,  
Karur.

+1cc to Mr.R.Murali, Advocate, SR.No.71193  
+1cc to Mr.K.Balasubramani, Advocate, SR.No. 71085

C.R.P. (PD) (MD) No.1098 of 2015  
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