



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.04.2018

CORAM

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

CRP (MD) .No.927 of 2018
and C.M.P. (MD) No. 4062 of 2018

K.K.Balaji .. Petitioner/Petitioner/7th Defendant

Vs.

A.Govindan ... Respondent/Respondent/Plaintiff

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 30.06.2017 made in I.A.No.58 of 2017 in O.S.No.1 of 2013 on the file of the IV Additional District Court, Madurai.

For Petitioner : Mr.S.C.Herold Singh

O R D E R

The Civil Revision Petition has been preferred against the fair and decreetal order dated 30.06.2017 made in I.A.No.58 of 2017 in O.S.No.1 of 2013 on the file of the IV Additional District Court, Madurai.

2. Originally, the respondent/plaintiff has filed the suit in O.S.NO. 1 of 2013 for specific performance against the petitioner, who is the seventh defendant in the suit and other defendants. The plaintiff was examined as P.W.1. At the stage of evidence, the petitioner/seventh defendant has filed I.A.No.58 of 2017 by invoking Order 12 Rule 6 and Section 115 of C.P.C and Section 58 of Indian Evidence Act and the said petition was dismissed on the basis of the admission made by the plaintiff. While dismissing the said application, cost of Rs.5,000/- was imposed by the learned II Additional District Judge, Madurai. Aggreived against the same, the petitioner is before this Court.

3. Heard the learned counsel for the petitioner and perused the materials available on record.

4. The application filed under Order 12 Rule 6 and Section 115 of C.P.C and Section 58 of Indian Evidence Act is not maintainable since the suit is one for specific performance and the same should



be decided only based on the effective trial in O.S.No.1 of 2013. Therefore, the order passed by the learned IV Additional District Court, Madurai does not warrant interference by this Court. But anyhow, this Court is inclined to set aside the cost imposed by the said court. Accordingly, the cost imposed by the IV Additional District Court, Madurai is set aside. In all other aspects, the order passed by the IV Additional District Court, Madurai, in I.A.No.58 of 2017 dated 30.06.2017 stands unaltered.

5. In the result, the Civil Revision Petition is partly allowed. No costs. Consequently, connected C.M.P.(MD) No.4062 of 2018 is closed.

Sd/-
Assistant Registrar (W)

/True Copy/

Sub Assistant Registrar

To

1. The IV Additional District Judge, Madurai.
2. The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+ 1 CC TO Mr.S.C.HEROLD SINGH, ADVOCATE IN SR No. 62988

CM

TE/SKN-RSK/SAR-4 : 22/05/2018 : 2P/5C

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