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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 27.02.2018

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P. (MD) Nos.1645 and 1646 of 2017 (PD)
and
C.M.P. (MD) .No.9196 of 2017

Kanagavalli

.. Petitioner in both the petitions /
Petitioner / Plaintiff

Vs.

1.Pitchai Asari

2.Dhanuskodi Nadar

3.Balakrishnan

4.Ramamoorthy

5.Revathi Selvi

.. Respondents in both the petitions /
Respondents / Defendants

PRAYER: Petitions filed under Section 115 of C.P.C., praying to set aside the Docket order, dated 19.09.2017, passed in I.A.Nos.816 and 817 of 2017 in I.A.No.672 of 2017 in O.S.No.95 of 2010 on the file of the District Munsif, Virudhunagar.

For Petitioner in
both the petitions : Mr.P.Santhoshkumar

For respondents 1 to 3 in
both the petitions : No appearance

For 4th respondent in
both the petitions : Mr.G.Mariappan

For 5th respondent in
both the petitions : Mr.S.Parthasarathy

COMMON ORDER

These revision petitions have been filed by the petitioner / plaintiff challenging the orders passed by the learned District Munsif, Virudhunagar in I.A.Nos.816 and 817 of 2017 in I.A.No.672 of 2017 in O.S.No.95 of 2010, dated 19.09.2017.



2. As the issue involved in both the revision petitions are interrelated to each other, they were heard together and are disposed of by way of this common order.

3. The revision petitioner herein, as plaintiff, has filed the suit in O.S.No.95 of 2010 on the file of the District Munsif Court, Virudhunagar, for partition against the respondents / defendants. The revision petitioner / plaintiff has filed I.A.No.672 of 2017 seeking appointment of an Advocate commissioner to send the disputed thump impression of the documents and the admitted thump impression for comparison to the finger print expert and to file a report. The Court below has allowed the said interlocutory application subject to the payment of Rs.1000/- to the respondents / defendants within 3 days. It is also stated in the said order that on the failure of the revision petitioner / plaintiff to pay the cost within 3 days, the said petition will stand automatically dismissed and in case of compliance of that condition, the revision petitioner was further directed to deposit Rs.6,000/- within one week thereafter. Since the revision petitioner / plaintiff failed to comply with the order, the revision petitioner / plaintiff has filed I.A.No.816 of 2017 seeking extension of time granted in I.A.No.672 of 2017, and I.A.No.817 of 2017 seeking to reopen the case, which has been adjourned for orders. Both the petitions were dismissed, against the present civil revision petitions are filed.

4. Heard the learned counsel for the appearing for the revision petitioner / plaintiff and the learned counsel appearing for the respondents 4 and 5 and perused the records carefully.

5. It is submitted by the learned counsel for the revision petitioner / plaintiff that due to financial crisis, she could not comply with the order passed by the Court below and it was neither wilful nor wanton. It is seen that the Court below has dismissed both the petitions by cryptic orders. Considering the facts and circumstances of the case, this Court is of the view that in the interest of justice, one more opportunity may be given to the revision petitioner / plaintiff. This Court is also of the view that no prejudice would be caused to the respondents in allowing both the petitions.

6. In view of the above, both the civil revision petitions are allowed on condition that the revision petitioner / plaintiff will comply with the conditional order, dated 04.08.2017, passed by the Court below on or before 15.03.2018, failing which these petitions shall stand dismissed automatically without any further reference to this Court. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (C.O)

/True Copy/



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The District Munsif,
Virudhunagar.

+One cc to M/s.S.Mahalakshmi, Advocate, SR.No.52265

+One cc to Mr.G.Mariappan, Advocate, SR.No.51866

+One cc to Mr.S.Parthasarathy, Advocate, SR.No.51865

gcg

RL/5C/3P/SKN/RSK/SAR1/2/3/2018

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