



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.08.2018

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CRP (MD)No.2349 of 2017 (PD)

and

CMP (MD)No.11316 of 2017

L.Jaishankar

... Petitioner/Defendant

Vs.

S.Raja

... Respondent/Plaintiff

Prayer : This Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the docket order passed by the I Additional District Court, Madurai in I.A.No.Nil of 2017 in CSR.11798 of 2017 in O.S.No.109 of 2014 dated 23.08.2017 and consequently direct the Trial Court to take the application to file in connection with the case in O.S.No.109 of 2014.

For Petitioner : Mr.M.Solaisamy

For Respondent : Mr.M.Sarangan

ORDER

The respondent herein filed OS.No.109 of 2014 on the file of the First Additional District Court, Madurai seeking the following relief :

"It is therefore prayed that this Honourable Court may be pleased to pass a preliminary decree infavour of the plaintiff :

a.directing the defendant to pay the plaintiff sum of Rs.15,38,000/- together with interest at 24% per annum within the time that may be stipulated by this Honourable Court failing which directing to bring the under mentioned mortgaged properties for sale and appropriate the sale proceeds towards decree amount and also pass a personal decree for the balance amount"



by the plaintiff. The trial court without numbering the said interlocutory application, has given certain findings on merits. Aggrieved by the same, this Civil Revision Petition has been filed.

2. Heard the learned counsel on either side.

3. This Court is of the view that the court below ought not to have rendered any finding on merits without numbering the I.A. Therefore, a direction is given to the court below to number the I.A in question.

4. The learned counsel for the respondent pointed out that since no interim order was granted in this Civil Revision Petition, the suit has already substantially progressed and that it is now posted for arguments of the defendant. He expressed his apprehension that as a consequence of the direction now given by this Court for numbering the I.A, the suit proceedings may be indefinitely prolonged.

5. Allaying the said apprehension, this Court specifically directs that the I.A will be disposed of along with the main suit and the findings set out in the impugned order stand vacated. It is needless to mention that since the respondent/plaintiff has already argued in the said suit, he will be entitled to advance his supplemental arguments opposing the I.A in question. With this direction, this Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar (CS-III)

To

The First Additional District Judge,
Madurai.

SKM

TE/RP/SAR-3 : 23/08/2018 : 2P/2C