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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 24.08.2018
CORAM
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(MD).No.271 of 2016 and
C.M.P.(MD)No.1085 of 2016

Thangavel

... Petitioner/Petitioner/
2nd Plaintiff

Vs.

1. Prabhakaran

... 1st Respondent/1st Respondent/
1st Plaintiff

2. Rajalingam

3. Durairaj Senniappa Gounder

... Respondents 2&3/
Respondents2&3/Defendants

PRAYER : Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 30.11.2015 in I.A.No.1144 of 2014 in O.S.No.356 of 2011 on the file of the Additional District Munsif Court, Karur.

For Petitioner : Mr.K.Govindarajan

For R-2 : Mr.M.P.Senthil

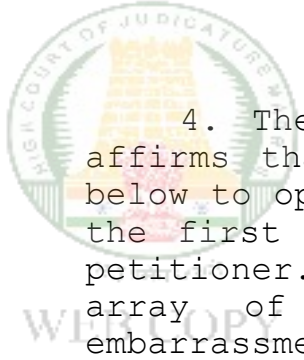
For R-1 & R-3 : No appearance.

ORDER

O.S.No.356 of 2011 was filed before the Court of the District Munsif, Karur, seeking the relief of declaration and permanent injunction. In the said suit, before the commencement of trial, the second plaintiff filed I.A.No.1144 of 2014 for transposing the first plaintiff to the array of the defendants. This prayer was not opposed by the first plaintiff. But the Court below chose to dismiss the said application on 30.11.2015. The correctness of the said order is questioned in this Civil Revision petition.

2. Heard the learned counsel appearing for the Revision petitioner as well as the second respondent.

3. Even before this Court, the first plaintiff has not chosen to enter his appearance either in person or through counsel, though his name is printed in the cause list.



4. The learned counsel appearing for the Revision petitioner affirms that the first plaintiff did not appear before the Court below to oppose I.A.No.1144 of 2014. This itself clearly shows that the first plaintiff is no longer sailing along with the Revision petitioner. Therefore, if the first plaintiff is retained in the array of the plaintiffs, it would definitely be causing embarrassment to the Revision petitioner. Therefore, the Court below ought to have transposed the first plaintiff to the array of the defendants.

5. The order passed by the learned Additional District Munsif, Karur, in I.A.No.1144 of 2011 in O.S.No.356 of 2011, dated 30.11.2015, is set aside. The Civil Revision petition stands allowed, accordingly. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar(CS-III)

To

1. The Additional District Munsif,
Karur.
2. The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court, Madurai. **(2 copies)**

+1CC to Mr.K.Govindarajan, Advocate, SR.No.80100
+1CC to Mr.M.P.Senthil, Advocate, SR.No. 80173

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ES/RP/SAR 3/19.09.2018/2P/6C