



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.08.2018

WEB COPY

CORAM :
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (MD) No.1670 of 2018
and
C.M.P. (MD) .No.7316 of 2018

M.A.Palani Kumar

.. Petitioner/Petitioner/
Defendant

vs.

M.Thangam

.. Respondent/ Respondent
/ Plaintiff

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal order in I.A.No.340 of 2016 in O.S.No.647 of 2013 on the file of the III-Additional Sub Court, Usilampatti Camp.

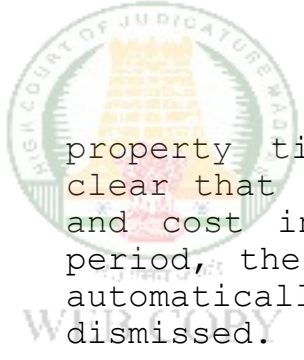
For Petitioner : Mr.H.Lakshmi Shankar
For Respondent : Mr.PT.S.Narendravasan

ORDER

The revision petitioner filed O.S.No.647 of 2013 on the file of III-Additional Sub Court, Madurai (Camp Court, Usilampatti) seeking the relief of specific performance. An exparte decree came to be passed on 09.04.2015. To set aside the same, the revision petitioner filed an application under Order 9 Rule 13 of CPC. There was a delay in filing the said application. To condone the same, I.A.No.340 of 2016 was filed. The Court below dismissed the said condone delay petition. Questioning the same, the civil revision petition came to be filed.

2. Heard the learned counsel on either side.

3. This Court is of the view that the revision petitioner deserves to be given an opportunity to contest the matter on merits. But even then, according to the revision petitioner, a sum of Rs.4,00,000/- was received by him. Therefore, this Court told the learned counsel for the revision petitioner that the defendant will have to be put on terms. There upon, the learned counsel on getting instructions from the respondent/revision petitioner submitted that the revision petitioner would deposit the sum of Rs.4,00,000/- within a period of two months from the date of receipt of the court's order. He also would pay the plaintiff a further sum of Rs.25,000/- towards costs. The defendant also further undertook that he would not alienate his share in the suit



property till the suit proceedings get concluded. It is made clear that if this undertaking is breached and the amount and cost in question are not deposited/paid within the aforesaid period, the order passed in the civil revision petition will stand automatically recalled and the civil revision petition would be dismissed.

4. Subject to the aforesaid condition and undertaking, the order impugned in this civil revision petition is set aside and I.A.No.340 of 2016 in O.S.No.647 of 2013 is allowed. The Court below is directed to number the IA filed under Order 9 Rule 13 of CPC and also allow the same. The suit is to be restored to file and the revision petitioner is given an opportunity to contest the matter on merits. Since the suit is of the year 2013, the trial court is directed to conclude the entire suit proceedings within a period of nine months from the date of receipt of a copy of this order. This Civil Revision Petition is allowed accordingly. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS III)

/True copy/

Sub Assistant Registrar(CS I)

To

1. The III-Additional Sub Judge,
Usilampatti.
2. The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai. **(Two copies)**

+1CC TO MR.H.LAKSHMI SHANKAR, ADVOCATE SR 79327

+1CC TO MR.P.T.S.NARENDRAVASAN, ADVOCATE SR 79207

C.R.P. (MD)No.1670 of 2018

20.08.2018

pjl

JM/SKN RSK/SAR 1/21.08.2018/2P/6C