



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.10.2018

CORAM

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THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(PD) (MD) No.1748 of 2018
and C.M.P. (MD) No.7566 of 2018

S.Backyalakshmi

...Petitioner/Petitioner/Defendant

-Vs-

B.Ganesan

... Respondent/Respondent/Plaintiff

Prayer: Civil Revision Petition is filed under Section 115 of C.P.C against the fair and decretal order dated 09.04.2018 made in I.A.No.1930 of 2017 in O.S.No.108 of 2016 on the file of the District Munsif Court, Melur.

For Petitioner : Mr.T.K.Gopalan for PT.S Narendra Vasan

For Respondent : Mr.J. Bharathan for T.R.Jeyapalan

O R D E R

The defendant in O.S.No.108 of 2016 on the file of the District Munsif Court, Melur, is the revision petitioner. The respondent filed the suit for permanent injunction. According to the revision petitioner, she is a cultivating tenant in respect of the suit property and that therefore, the suit in question is statutorily barred. Raising this plea, I.A.No.1930 of 2017 was filed for rejection of plaint. The court below by the order impugned in this Civil Revision Petition dismissed the said Interlocutory Application. Questioning the same, this Civil Revision Petition has been filed.

2. Heard the learned counsel appearing on either side.

3. It is seen that the court below has not gone into the merits of the matter at all. The court below took note of the order passed in C.R.P.(PD) (MD) No.1835 of 2017 and dismissed the interlocutory application in question.

4. I am of the view that whatever may be the direction in C.R.P. (PD) (MD) No.1835 of 2017, right of the defendant to apply for rejection of the plaint cannot be taken away. In this case, such an application was taken out. But the trial court has failed to consider the same and mechanically dismissed the said application. Therefore, the order impugned in this Civil Revision Petition is set aside. The matter is remanded to the file of the court below for

disposal afresh in accordance with law.

5. In the result, this Civil Revision Petition is allowed. No costs. Consequently, connected C.M.P. (MD) No.7566 of 2018 is closed.

6. It is needless to mention that the trial Munsif will dispose of the I.A.No.1930 of 2017 expeditiously since time bound direction has been given in the other Civil Revision Petition.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar (CS-I)

CM

To,
The District Munsif Court, Melur..

+1cc to Mr.PT.S.Narendra Vasan, Advocate in SR No.89033

+1cc to Mr.T.R.Jeyapalan, Advocate in SR No.89056

C.R.P. (MD) Nos.1748 of 2018
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NM/SV/SAR I/25.11.18/2P/4C.