

THE HON'BLE SRI JUSTICE D.V.S.S.SOMAYAJULU

APPEAL SUIT NO.776 OF 2017

JUDGMENT:-

Sri A.V.Sivaiah, learned counsel for the appellant and Sri Sharad Sanghi, learned counsel for the 1st respondent are present.

Learned counsel for the appellant submits that 4th respondent has been served. To that effect, he produced postal acknowledgment card and undertakes to file the same in the office. The claim against respondent Nos.2 and 3 is given up. The 5th respondent is only tenant in the property and he has already vacated the same as per the submission of the learned counsel for the appellant, which was noted by this court on 27-07-2018.

This court has heard the learned counsel for the appellant and 1st respondent. 4th respondent did not appear. Both learned counsel agree that the matter should be remanded to the lower court and that an opportunity should be given to the defendants to contest the matter.

Noting the said submission, the *ex parte* decree dated.14-06-2017 passed in O.S.No.54 of 2011 by the I Additional District Judge, Chittoor is set aside. With consent of both learned counsel, the Appeal Suit is allowed while remanding the matter to the court below for disposal in accordance with law. No costs. Miscellaneous Petitions pending, if any, shall stand closed in consequence.

D.V.S.S.SOMAYAJULU,J

27-08-2018
TSNR