

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

C.R.P.No.4185 of 2016

ORDER:

This Civil Revision Petition is filed under Article 227 of the Constitution of India assailing the order dated 28.07.2016 passed in I.A.No.943 of 2014 in O.S.No.601 of 2010 on the file of Principal Senior Civil Judge Court, Nellore.

2. Heard the learned counsel appearing for both the parties and perused the material available on record.

3. The facts leading to filing of the present revision petition, in brief, are as follows:

The petitioners filed O.S.No.601 of 2010 on the file of Principal Senior Civil Judge Court, Nellore, against the respondents seeking perpetual injunction in respect of the suit schedule property. After full fledged trial, the trial Court decreed the suit on 25.08.2014. While things stood thus, the respondents have filed I.A.No.943 of 2014 under Order 9 Rule 13 CPC to set aside the *ex parte* decree dated 25.08.2014. The petitioners filed counter *inter alia* contending that the petition filed by the respondents is not maintainable under law. The trial Court after affording a reasonable opportunity to both parties, allowed the petition. Hence, the revision.

4. Learned counsel for the petitioners submitted that the trial Court allowed the petition without assigning reasons. He further submitted that the impugned order is not sustainable

either on facts or in law. Per contra, learned counsel for the respondents submitted that the trial Court after taking into consideration the material available on record, allowed the petition. Therefore, it is not a fit case to interfere.

5. The point that arises for consideration is: 'Whether there is any illegality, irregularity or impropriety in the impugned order?'

6. It is an admitted fact that the trial Court decreed the suit in favour of the petitioners after full fledged trial. The respondents filed petition under Order 9 Rule 13 CPC. The Court has to assign reasons much less cogent and valid reasons while disposing of interlocutory applications. As rightly pointed out by the learned counsel for the petitioners, the trial Court passed a cryptic order while allowing the petition.

7. I have carefully perused the impugned order. As rightly pointed out by the learned counsel for the petitioners, the trial Court has not assigned reasons much less cogent and valid reasons while allowing the petition. Any order passed without reasons is not sustainable. Taking into consideration the facts and circumstances of the case, this Court is of a considered view that it is a fit case to set aside the impugned order and remand the matter to trial Court for fresh disposal.

8. In the result, the Civil Revision Petition is allowed setting aside the order dated 28.07.2016 in I.A.No.943 of 2014 and remanded the matter to the trial Court for fresh

disposal. The learned Principal Senior Civil Judge, Nellore, is hereby directed to dispose of I.A.No.943 of 2014 in O.S.No.601 of 2010 afresh after affording a reasonable opportunity to both parties, in accordance with law. There shall be no order as to costs. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

T.SUNIL CHOWDARY, J

29.11.2018

Rns

