

C.M.P.No.6416 of 2019
in
S.A.No.1834 of 1999
P.RAJAMANICKAM.J.,

This Petition has been filed by the appellant to implead the respondents 4 and 5 as respondents in the main Second Appeal.

2.The learned counsel for the petitioner/appellant has submitted that during pendency of the Second Appeal, it was represented by the first respondent that he had already sold the suit property to the fourth respondent and only thereafter, the petitioner applied for encumbrance certificate and got the particulars and came to know that the first respondent had sold the suit property to the fourth respondent. He further submitted that the fourth respondent has mortgaged the property (equitable mortgage) with the fifth respondent and hence, the respondents 4 and 5 have to be impleaded as respondents in the main Second Appeal.

3.Notices were sent to the respondents 4 and 5 and after receipt of the said notices, respondents 4 and 5 have not appeared and hence they were set ex-parte on 28.03.2019 and the matter has been posted for filing counter for R2. At that stage, Mr.Swarnam J.Raja Gopalan, the learned Advocate has represented that he filed a petition on behalf of R4 to set aside the ex-parte order dated 28.03.2019. Hence, the matter was adjourned to 26.04.2019 (today). Today Mr.Swarnam J.Raja Gopalan, the learned Advocate submitted

that the said petition was returned by the Registry. Further, he has submitted that since the fourth respondent is a subsequent purchaser, she is entitled to participate in the Second Appeal. In such a case, the fourth respondent need not file a petition to set aside the ex-parte order passed in this petition. If this petition is allowed, then only the fourth respondent can participate in the Second Appeal. Hence, this Court inclined to allow this petition.

4. In the result, this petition is allowed. No Costs.

gbi

26.04.2019

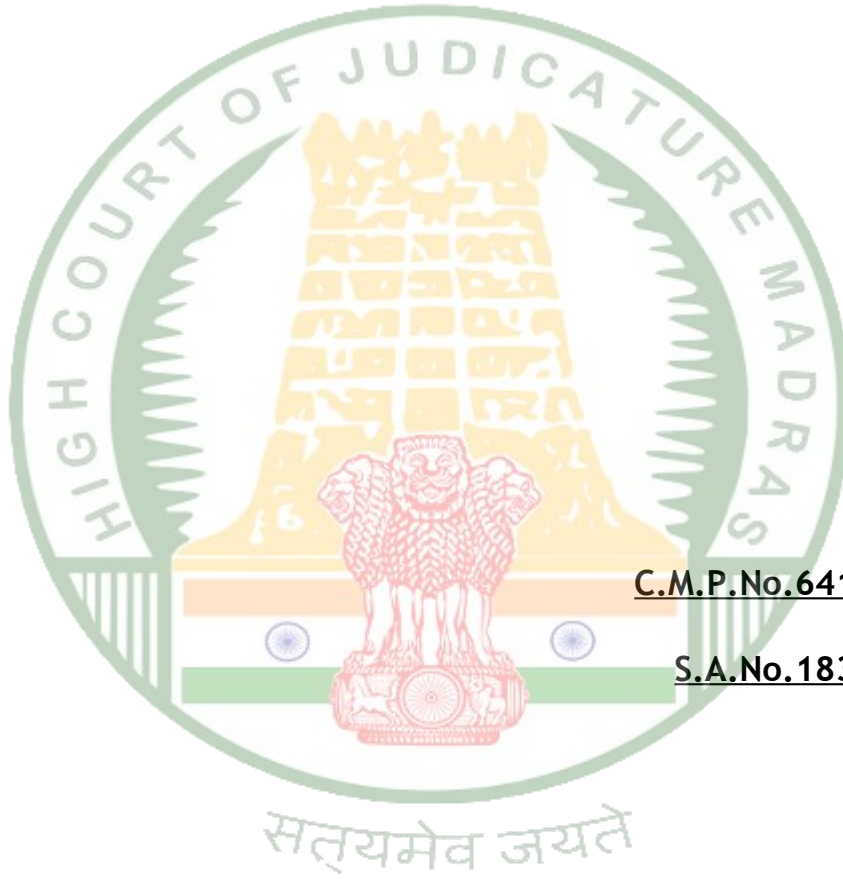
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