

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2019

CORAM
THE HONOURABLE **MR.JUSTICE C.SARAVANAN**

C.R.P.(PD).No.1484 of 2014
and
M.P.No.1 of 2014

1.Dr.P.Sundarraaj
2.Balasaraswathi alias Saraswathi ... Petitioners

Vs.

1.A.S.Pandurangan Chettiar
2.A.P.Udayashankar
3.A.P.Udayakumar
4.Kalaiselvi ... Respondents

PRAYER: Civil Revision petition is filed under Article 227 of Constitution of India, to direct the Learned Additional District Judge cum Fast Track Court No. III, Coimbatore to number the Interlocutory Application filed by the petitioners in I.A.No.687 of 2013 in O.S.No.589 of 2009 on the file of Additional District Judge cum Fast Track Court No. III, Coimbatore.

For Petitioners : Mr.P.Saravana Sowmiyan

For R1 & R2 : Mr.R.Venkatavarathan

ORDER

The present Civil Revision Petition has been filed to against the exparte order dated 12.11.2013 in I.A.No.687 of 2013, to permit the respondents/plaintiffs amend the plaint.

2.The case was listed for hearing before the lower Court on 24.10.2013. On the said date the counsel for the petitioners had sought time. Therefore, the case was adjourned to 29.10.2013.

3.The case was thereafter adjourned to 07.11.2013. On 07.11.2013, however there was no representation for the petitioners. Therefore, the case was adjourned to 12.11.2013.

4.On 12.11.2013 again there was no representation and therefore the order came to be passed allowing amendment, which has been challenged in the Civil Revision Petition, on the ground, that the counsel appearing for the petitioners had wrongly noted down the date. Therefore, it was submitted that the prejudice will be caused by the petitioners if the suit proceeds based on the amendment to the plaint. The petitioner therefore, filed a petition under Order 9 Rule 7, read with Section 151 of CPC was returned with the following observation:-

"Returned:-

The Order Passed on 07.11.2013 is not an ex parte order. But it is passed as no objection was raised to the petition. Hence Rtd."

5. I find no merit to allow present the Civil Revision Petition. The respondent had filed an application for amendment before the commencement of Trial. The petitioner is therefore entitled to file additional written statement and raise all defences that are available.

6. Therefor while dismissing the present C.R.P, liberty is given to the petitioner to file additional written statement and to raise the defence that are available.

7. The suit is of the year 2009. The Lower Court is therefore directed to take up the suit and dispose it with in a period of one year from the date of receipt of a copy of this order.

8. The Civil Revision Petition is disposed of with above observations. Consequently, connected Miscellaneous Petition is closed. No costs.

14.02.2019

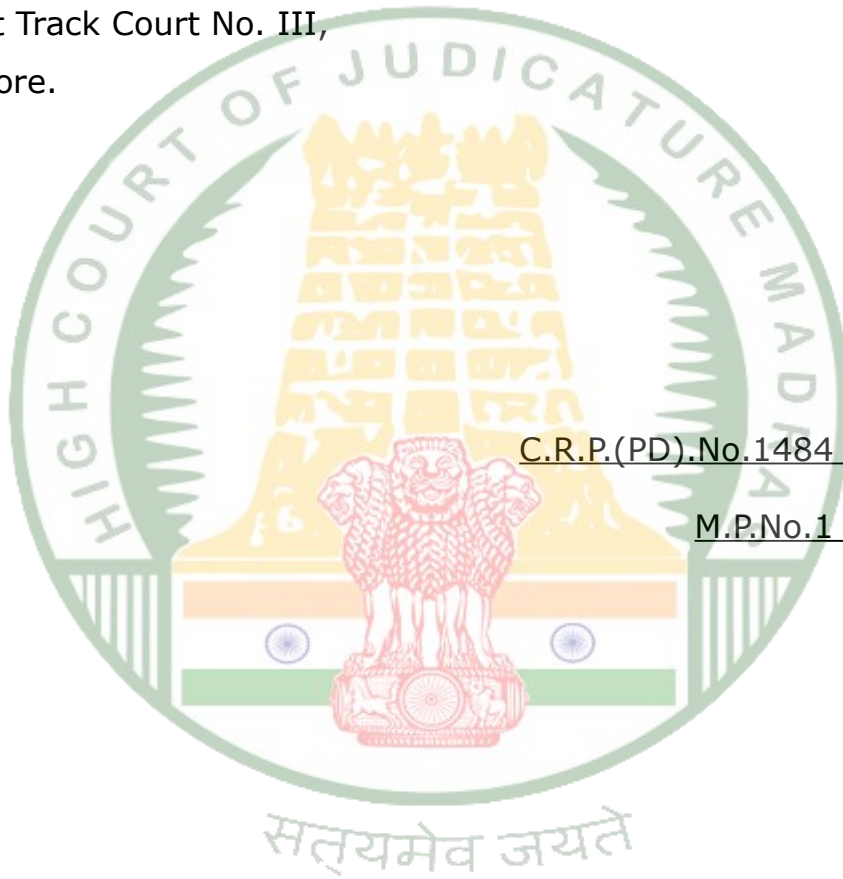
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C.SARAVANAN, J.

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To

The Learned Additional District Judge
cum Fast Track Court No. III,
Coimbatore.



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and
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