

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.10.2019

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

C.R.P.No.2504 of 2019

Vishnuvarma S.

...Petitioner

-Vs-

S.Venkata Rama Raju
Hereditary Temporary Trustee of
Arulmigu Pattabhiramasamy Temple, a private
temple, S/o Kalaiya Raju, residing at Old No.30
New No.243, Billakuppam Village, S.R.Kandigai
Post, Gummidipoondi Taluk, Tiruvallur District.

... Respondent

Prayer : Civil Revision Petition under Article 227 of the
Constitution of India, against the docket order dated 04.02.2018
passed in I.A.No.92 of 2015 in O.S.No.69 of 2015 on the file of
the Additional District Judge IV at Ponneri.

For Petitioner : Ms.Shabnam Banu A.
For Respondent : Mr.R.Krishnaswamy

ORDER

This revision has been filed against the docket order dated
04.02.2018 passed in I.A.No.92 of 2015 in O.S.No.69 of 2015 on
the file of the Additional District Judge IV at Ponneri.

2. By the said order, I.A.No.92 of 2015 in O.S.No.69 of 2015
filed under Order 39 Rule 1 and 2 of C.P.C., has been closed,
without prejudice to the rights of both the parties, as against
which the plaintiff / petitioner, who filed the said I.A., filed
this Revision Petition.

3. Learned counsel for the revision petitioner submits that
the said I.A., was filed along with the suit in the year 2015,
where it has been kept pending for more than three years and
ultimately, after hearing both sides, the learned Judge ought to
have passed orders on merits on the said application. Instead,
the learned Judge has simply closed the application, without
prejudice to the contentions raised by both the parties subject

to the result of the suit and the said order abruptly closing the application after having kept it for years together and after hearing the said I.A., is palpably wrong and the said order needs to be interfered with.

4. Learned counsel for the respondent submitted that, since the suit has been kept pending, the lower Court might have thought that the issue raised in the I.A., could be also taken care of along with the main suit itself. But, anyhow, if this Court feels that the matter can be remanded to the Court below, he does not have any objection for the same.

5. I have considered the submissions made on behalf of the learned counsel for the petitioner as well as the learned counsel for the respondents and have also perused the materials placed on record.

6. As has been rightly pointed by the learned counsel for the petitioner, the I.A., has been kept pending from 2015 itself and ultimately arguments were heard by the learned Judge, which was recorded. However, without deciding the same, it has been closed, for which it seems no concurrence was given by both the sides.

7. In that view of the matter, this Court feels that the said order, closing the application, which was kept pending for a long time, requires to be interfered with and is liable to be set aside.

8. In the result, the impugned order is set aside and the matter is remanded back to the Court below with direction to decide the said I.A.No.92 of 2015 on merits and in accordance with law. In such circumstances, if at all the Court below feels that, the learned counsel for both the sides have to be heard once again, such opportunity also can be given and after hearing them, the I.A., in question shall be disposed of within 30 days from the date of receipt of a copy of this order.

9. With this observation/direction, the Civil Revision Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

KST

To

The Additional District Judge IV at Ponneri
Tiruvallur District.

+1cc to Ms.Shabnam Banu A., Advocate, S.R.No.90341

C.R.P.No.2504 of 2019

VGII(CO)
CS/28/11/2019



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