

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.09.2019

CORAM:

THE HON'BLE MR. JUSTICE R.PONGIAPPAN

Civil Revision Petition (NPD) No.2870 of 2014

1. K.Ramachandra Reddy Petitioner

Vs

T.Rajagopal Reddy Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the Fair and Decreetal order dated 23.06.2014 made in I.A.No.70 of 2014 in O.S.No.10595 of 2010, on the file of XVIII Additional City Civil Court, Chennai.

For Petitioner : Mr.P.Thirupathi Raj

For Respondent : No appearance

ORDER

Aggrieved over the order passed in IA No.70 of 2014 in OS No. 10595 of 2010, on the file of XVIII Additional City Civil Court, Chennai, the petitioner herein, who is the plaintiff in the above referred Suit has filed this Civil Revision Petition.

2. Before the trial Court, the petitioner herein has filed a Suit as against the respondent and seeks the relief to direct the defendant to pay a sum of Rs.11,55,000/- towards principal and interest. While the Suit is posted for arguments before the trial Court, the learned counsel appearing for the defendant filed applications in IA Nos.172, 173 and 174 of 2012, to reopen the evidence on the side of the defendant and to recall D.W.1 for further examination and to condone the delay in complying with the conditional order dated 19.08.2011. The learned trial Judge after affording opportunity to the other side, has dismissed all the applications by a common order dated 22.01.2013. Against which, the respondent in this Civil Revision Petition has filed Civil Revision petition Nos.1147 to 1149 of 2013 and prayed to set aside the orders passed by the learned trial judge and to allow the applications filed by the petitioner. While at the time of admitting these Civil Revision Petitions, this Court has passed a conditional order with a direction to deposit Rs.4,00,000/- to the credit of O.S.No.10595 of 2010, on the file of XVIII City Civil Court, Chennai on or before 26.04.2013. The said conditional order passed by this Court was complied with by the defendant. However, after depositing the said amount, the suit has been decreed in favour of the plaintiff, in which the defendant is directed to pay Rs.11,50,000/- with cost, to the plaintiff.

3. Subsequent to the above proceedings, the petitioner herein has filed an application in IA No. 70 of 2014, in which, he prayed to pay the deposited amount to the petitioner. The learned trial judge by holding that since the deposit was made as per the order passed by this Court, without any specific order for payment out, the petition filed by the petitioner is not at all maintainable. Ultimately, the learned judge has dismissed the payment out petition filed by the petitioner.

4. Aggrieved over the said order passed by the XVIII Additional Judge, Chennai, the petitioner herein is before this Court with the present Civil Revision Petition.

5. After admitting this Civil Revision Petition, notice was ordered to the respondent/defendant and after entering appearance, the defendant had filed an affidavit before this Court. In paragraph 3 of the said affidavit, he has stated that he has no objection to give the above mentioned deposit amount to the plaintiff. Therefore, the averments made in the affidavit filed by the respondent would reveal the fact that he has not at all claimed any right over the deposited amount.

6. Considering the stand taken by the petitioner and also for the reason that the respondent has no objection in allowing the payment out petition, I am of the opinion that the petitioner/plaintiff is entitled to receive the said deposit amount with accrued interest. Thereby, the order passed in I.A.No.70 of 2014 in O.S.No.10595 of 2010 by the learned XVIII Additional City Civil Judge, Chennai is hereby set aside. The learned XVIII Additional City Civil Judge, Chennai is directed to return the deposit amount, on receipt of formal application from the petitioner herein / plaintiff.

7. With the above direction, this Civil Revision petition is disposed of. No costs.

vrn

13.09.2019

To

The XVIII Additional City Civil Court, Chennai.

WEB COPY

R.PONGIAPPAN, J.,

vrn



Civil Revision Petition (NPD) No.2870 of 2014

WEB COPY

13.09.2019