

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.11.2019

CORAM:

THE HONOURABLE Mr. JUSTICE R. SURESH KUMAR

**C.R.P.(PD).No. 2630 of 2019
and
C.M.P.No. 17396 of 2019**

G.R.Sridharan ... Petitioner

-Vs-

1. G.R.Damodaran

2. G.R.Alavandar

... Respondents

Prayer : Petition filed under Article 227 of the Constitution of India against the Order/Decretal Order dated 19.06.2019 in I.A.No. 179 of 2018 in I.A.No. 82 of 2017 in I.A.No. 83 of 2017 in I.A.No. 84 of 2017 in O.S.No. 33 of 2014 on the file of the I Additional District Judge, Thiruvallur.

For Petitioner : Mr.R.Subramanian

For Respondents : Mr.N.Nithianandam

ORDER

This Revision Petition has been filed against the fair and decretal order dated 19.06.2019 passed in I.A.No. 179 of 2018 in I.A.No. 82 of 2017 in I.A.No. 83 of 2017 in I.A.No. 84 of 2017 in O.S.No. 33 of 2014 on the file of the I Additional District Judge, Thiruvallur.

2. Before the Trial Court, the Revision petitioner was the plaintiff, who filed the suit for partition, wherein an application seems to have been taken out for restraining the respondents/defendants from harvesting the land in question without the knowledge of the Advocate Commissioner who was also appointed by the Court. Subsequently, it seems that despite the said order, the respondent/defendant harvested the paddy. Aggrieved over the alleged action on the part of the respondents, the plaintiff has filed I.A.Nos. 82, 83 & 84 of 2017 to punish the respondents, all the three applications have been heard and disposed of by the Court below by way of a Common order dated 12.07.2018, wherein the learned Judge has passed an order stating that 384 bags of paddy was harvested from the land in dispute, despite the order passed by the Court. Therefore, it was valued and that amount was directed to be deposited by the respondents/defendants to the credit of the suit in O.S.No. 33 of 2014.

3. As against the said common order made in I.A.Nos. 82 to 84 of 2017, no further appeal seems to have been filed by the plaintiff. However, the Plaintiff/Revision Petitioner had chosen to file the another Interlocutory Application in I.A.No. 179 of 2018 to strike off the written

statement filed in the suit in O.S.No.33 of 2014, after enquiry, the I.A.No. 179 of 2018 is dismissed by an order dated 19.06.2019. Assailing the same, present Revision Petition has been filed.

4. The learned Counsel for the Revision Petitioner would submit that despite the order passed by the Court below, the defendants had harvested and procured 384 bags of paddy which was valued in the order passed by the Trial Court. The procured paddy has been valued at Rs.4,06,800/-. Since the said amount was not deposited as directed by the Court, the present application was filed to state that, the respondents/defendants have no right to file a written statement, which is an abuse of process of law and therefore, the written statement already filed by the defendants can be struck off by invoking Order VI Rule 16 of CPC by the Court below. The said application having been considered by the Trial Court was dismissed through the impugned order. Hence interference of this Court is required.

5. The learned counsel for the respondents would submit that whether the respondents had violated the order passed by this Court or not is a matter to be decided. The petitioner without pursuing any action

invoking contempt jurisdiction, filed the I.A. to strike out the written statement filed by the 2nd respondent/2nd defendant.

6. I have considered the submissions made by the learned counsel on both sides and perused the materials placed before this Court.

7. Order VI Rule 16 of CPC made it clear that under three circumstances or for three reasons enumerated in Clause a, b and c of Rule 16 of Order VI, the pleadings could be struck off. For easy reference, relevant Rule is extracted here under;

"16. Striking out pleadings— The Court may at any stage of the proceedings order to be struck out or amended any matter in any pleading—

(a) which may be unnecessary, scandalous, frivolous or vexatious, or

(b) which may tend to prejudice, embarrass or delay the fair trial of the suit, or

(c) which is otherwise an abuse of the process of the Court."

8. In the first circumstance, if the Court feels that the pleadings are unnecessary scandalous, vexatious that can be struck off. In the

second circumstance, if the Courts feels that the pleadings made prejudice or there is delay of fair trial, such pleadings can be struck off and in the third and final circumstances, if the Court feels that such pleadings are abuse of process of Court, where also such pleadings both in the plaint or in the written statement can be struck off.

9. In the case on hand, it is not the submission of the learned counsel appearing for the Revision Petitioner that, the particulars in the written statement are scandalous and abuse of process of Court. Instead it is the case of the Revision Petitioner that, the order of the Court below seems to have been violated and for that reason alone, the defendant/respondent's, written statement has to be struck off. This Court is not in agreement with the said plea raised by the Revision Petitioner/Plaintiff.

10. The learned Judge has given the following answer to the ground raised by the Revision Petitioner/Plaintiff, which reads thus :

" Upon Perusal of the written statement filed by the second defendant this Court finds that there are no objectionable scandalous, vexatious pleadings made by the second respondent in his written statement. Further

there is nothing in the written statement filed by the second defendant to show that the same amounts to abuse of the process of the Court. While so, merely because the second respondent has failed to comply with the direction of the Court as per the order dated 12.07.2018, this Court cannot conclude that the pleadings are abuse of the process of the Court. Hence, this Court finds that there are no justifiable reasons set forth in the application filed by the petitioner/plaintiff to warrant exercise of powers under order 6 rule 16 CPC. Hence this Court finds that there is no merit in the application filed by the petitioner/plaintiff."

11. The said reasoning given by the Court below, in the considered opinion of this Court, is in accordance with law. The Second respondent, i.e, the defendant in the suit alleged to have failed to comply with the direction of the Court already made in the order dated 12.07.2018 in I.A.Nos.82,83 & 84 of 2017 in O.S.No. 33 of 2014.

12. The Trial Court cannot conclude with the pleadings made in the written statement of the defendants that, the written statement falls in any one of the category of Order VI Rule 16 of C.P.C. Therefore, the said order, which is impugned herein has been passed after considering

the issue in proper perspective. Hence, the impugned order does not warrant any interference of this Court.

13. However, the dismissal of the Revision Petition will not preclude the Revision Petitioner to set the law in the motion for initiating appropriate proceedings, if the Revision Petitioner feels any order passed by the Court below has been wilfully violated by the respondent/plaintiff.

14. Accordingly, the Civil Revision Petition Stands dismissed. No costs. Consequently, the connected civil miscellaneous petition is closed.

18.11.2019

Index: Yes / No

Speaking order / Non speaking order

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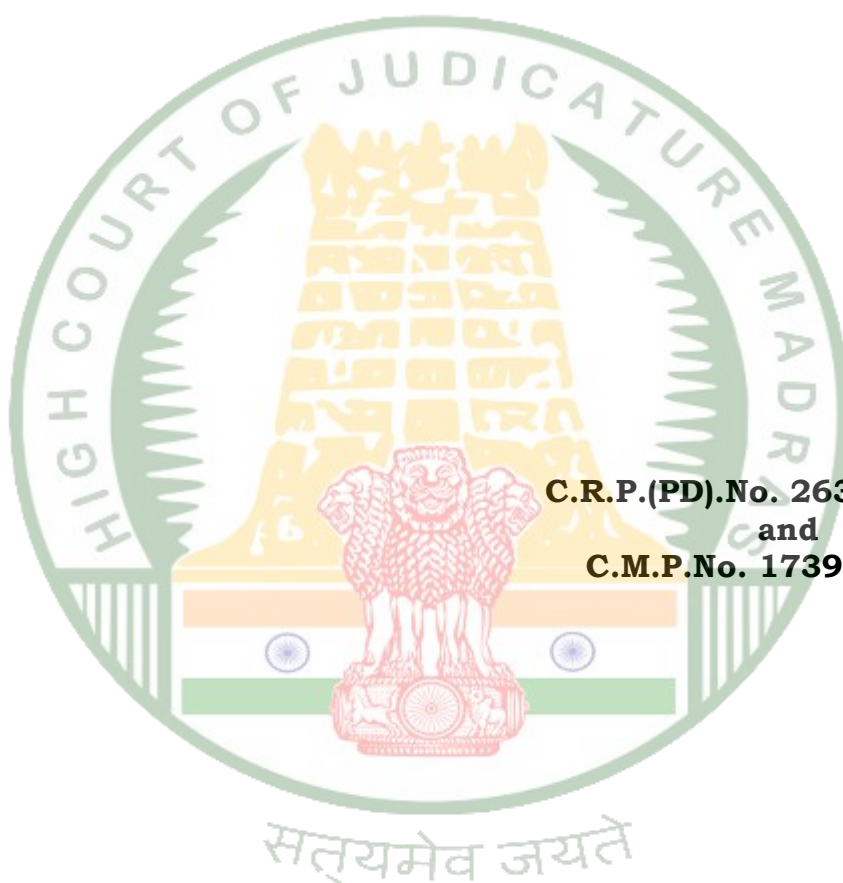
To
The I Additional District Judge,
Thiruvallur.

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R. SURESH KUMAR, J.

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