

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2019

CORAM

THE HON'BLE MR.JUSTICE R. SURESH KUMAR

Civil Revision Petition (PD) No.3136 of 2019

M/s.Thiru Rani Logistics Private Limited
represented by C.Karthikeyan
having its registered Office
New No.1, Krishnadoss Road, Otteri
Chennai 600 012.

... Petitioner

-Vs-

M/s.Toshiba JSW Power Systems Private Limited
having its registered office, S.No.74-95, Vaikkadu
Village, Andarkuppam Check Post
Manali New Town
Chennai 600 101.

... Respondent

Prayer : Civil Revision Petition under Article 227 of the Constitution of India against the order passed in I.A.SR.No.7871/2019 in O.S.No.3080 of 2018 dated 24.06.2019 by the XVIII Additional City Civil Court, Chennai.

For Petitioners : Mr.Suresh

ORDER

This revision petition has been filed against the order passed in I.A.SR.No.7871/2019 in O.S.No.3080 of 2018 dated 24.06.2019 by the XVIII Additional City Civil Court, Chennai.

2. Before the trial Court, the defendant had filed this I.A., to implead the United India Insurance Company and another party as defendants in the suit along with the petitioner, who is the sole defendant already in the suit. Sometime in February 2019, a question was posed, by returning the papers by the office of the trial Court, as to how the petition was maintainable and it has been answered by the petitioner/defendant that, as per Order I Rule 10(2) of C.P.C., the plaintiff or defendant can file an application to add any party, whose presence before the Court may be necessary for the adjudication and hence the petition is maintainable.

3. However, by an order dated 24.06.2019, the learned Judge has returned the case papers by passing the following order.

"This petition not maintainable at this stage."

4. As against the said docket order, returning the I.A., filed by the petitioner / defendant as not maintainable, the present revision has been filed.

5. Heard Mr.Suresh, learned counsel for the petitioner, who would submit that under Order I Rule 10(2) of C.P.C., either party, both plaintiff as well as defendant, can file an application at any stage, to strike off (or) add any party and if an application is filed to add any party as defendant, the same shall be decided on merits by the Court concerned, as to whether the addition of party is necessary for

completion of effective and complete adjudication of the issues raised in the suit and without going into the same, the said application filed by the defendant / revision petitioner before the trial Court, since has been rejected as not maintainable, without even numbering the same, by way of a docket order, the said order is against the very spirit of Order I Rule 10(2) of C.P.C., and hence the order is liable to be interfered with.

6. I have considered the submissions made by the learned counsel for the petitioner and have perused the materials placed on record.

7. The learned Judge has not given any reason as to how he has come to the conclusion that the application was not maintainable and he has simply rejected the same, without even numbering, by passing an one line order that, **"this petition not maintainable"**. This kind of cryptic order is not expected from the Court, as whatever be the decision to be made by the Court, reasons have to be given. Without assigning any reason, no judicial order can be passed like this. Therefore, on that ground itself, the impugned docket order has to be interfered with. That apart, as per Order I Rule 10(2) of C.P.C., when an application is filed by the plaintiff / defendant to implead a party, if it is necessary, the same has to be decided on merits by the trial Court as to whether the proposed party is a necessary party to be added as party defendant in the suit to the complete and effective adjudication of the issues raised in the suit. Without exploring the same and

deciding the same on that angle, since a cryptic order has been passed by the learned Judge stating that, the application is not maintainable, this Court has no hesitation to hold that the said order cannot be sustained.

8. In that view of the matter, the impugned order is set aside and the matter is remitted back to the learned Judge with a direction to number the I.A., and decide the same on merits and in accordance with law.

9. With the above direction, the Civil Revision Petition is allowed. No costs. Registry is directed to return the original application ie., I.A.SR.No.7871 of 2019 in O.S.No.3080 of 2018 to the learned counsel for the petitioner, to enable him to present the same before the trial Court as indicated above, after getting necessary acknowledgement.

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26-09-2019

Index : yes
Internet : yes
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Note :Issue order copy on Monday (30.09.2019)
To

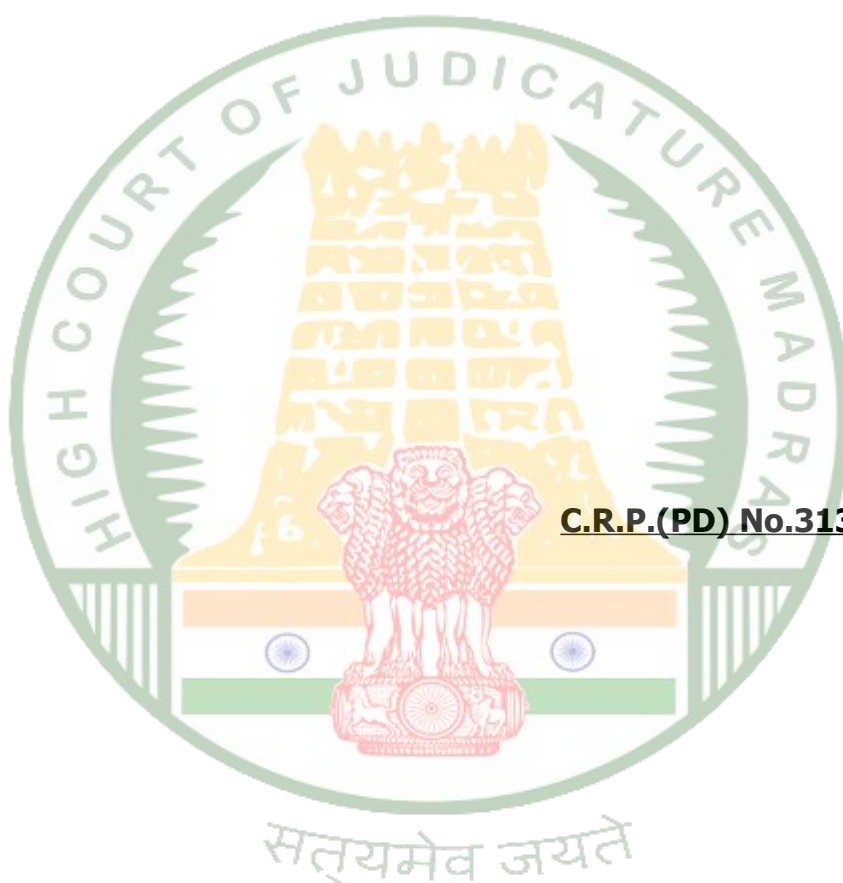
The XVIII Additional Judge, City Civil Court, Chennai

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C.R.P.(PD) No.3136 of 2019

R. SURESH KUMAR, J.

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