

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.10.2019

CORAM:

THE HONOURABLE Mr.JUSTICE R.SURESH KUMAR

C.M.P.No.21115 of 2019
in
C.R.P.SR.No.123916 of 2019

1.Y.D.Willson
2.Thaimani Joseph
3.S.John Chandraraj
4.A.Yobu
5.D.Mano
6.D.Rajendran
7.S.Iswerya

.... Petitioners

Vs.

J.Fevin Samuelraj

.... Respondent

Prayer in CMP No.21115/19: Petition filed under Article 227 of the Constitution of India praying to dispense with the production of the fair and decretal order dated 15.03.2019 in I.A.No.1 of 2019 in O.S.No.442 of 2019 on the file of the Hon'ble I Additional Subordinate Judge, Coimbatore.

Prayer in CRP.SR123916 of 2019:

Petition filed under Article 227 of the Constitution of India praying pleased to set aside the fair and decretal order dated 15/03/2019 made in I.A.No.1 of 2019 in OS.No.442 of 2019 on the file of Sub Court Coimbatore and pass such further or other orders.

For Petitioners : Mr.S.Conscious Ilango

ORDER

This Civil Miscellaneous Petition has been filed to dispense with the production of the certified copy of the fair and decretal order passed by the I Additional Subordinate Judge at Coimbatore in I.A.No.1 of 2019 in O.S.No.442 of 2019, by order dated 15.03.2019.

2.The learned counsel appearing for the petitioners would submit that, the fair and decretal order though had been

applied, yet to be received, hence, due to urgency, he filed the main revision along with this dispense with petition, where, petition and order copy had already been filed.

3. On the very merits of the issue in the main revision petition itself is that, the revision has been filed against the said order dated 15.03.2019 whereby the trial Court in the said I.A. had granted ad-interim injunction under Order XXXIX Rule 1 and 2 of C.P.C. As against the said order, the petitioners, who are the defendants in the suit, seems to have originally filed a vacate injunction petition and subsequently, he withdrew it on the ground that, in that application, if it is taken up as separate proceedings and counter has to be filed by the plaintiffs, who are the defendants in the said application, then, that will lead to unnecessary time consuming. Therefore, he withdrew the same, but at the same time, the learned counsel appearing for the revision petitioners would submit that, the Court below does not have any jurisdiction to entertain the suit itself and therefore, on that ground, the ad-interim injunction, through the impugned order in the main revision, could not have been granted.

3. Be that as it may, if it is an ad-interim injunction under Order XXXIX Rule 1 and 2, in order to vacate the said injunction, either vacate injunction application can be filed, which had already been however withdrawn for the aforesaid reason, nevertheless the revision petitioners/defendants can pursue the said application i.e., I.A.No.1 of 2019 filed by the plaintiff where they claimed that, they have already filed counter.

4. In that view of the matter, even in the main revision, on merits, the revision petitioners may not have a good case to entertain this revision, except to state that, the revision petitioners can pursue the said I.A.No.1 of 2019 in O.S.No.442 of 2019 filed by the plaintiff/ respondent under Order 39 Rule 1 and 2 C.P.C. on merits at an early date.

5. In that view of the matter, by disposing this Civil Revision Petition at the SR stage, without even ordering the dispense with petition, this Court observes that, it is open to the petitioners i.e., revision petitioners to pursue the said I.A.No.1 of 2019 where counter has already been filed and therefore, the said application in I.A.No.1 of 2019 filed by the plaintiff/respondent herein against the defendants/ revision petitioners herein, shall be decided by the Court below at an early date, preferably, within a period of 30 days from the date of receipt of a copy of this order.

6.With this observation, this Civil Revision Petition at the SR stage is rejected. No costs.

Sd/-
Assistant Registrar(Insp cell)

//True Copy//

Sub Assistant Registrar

Sgl

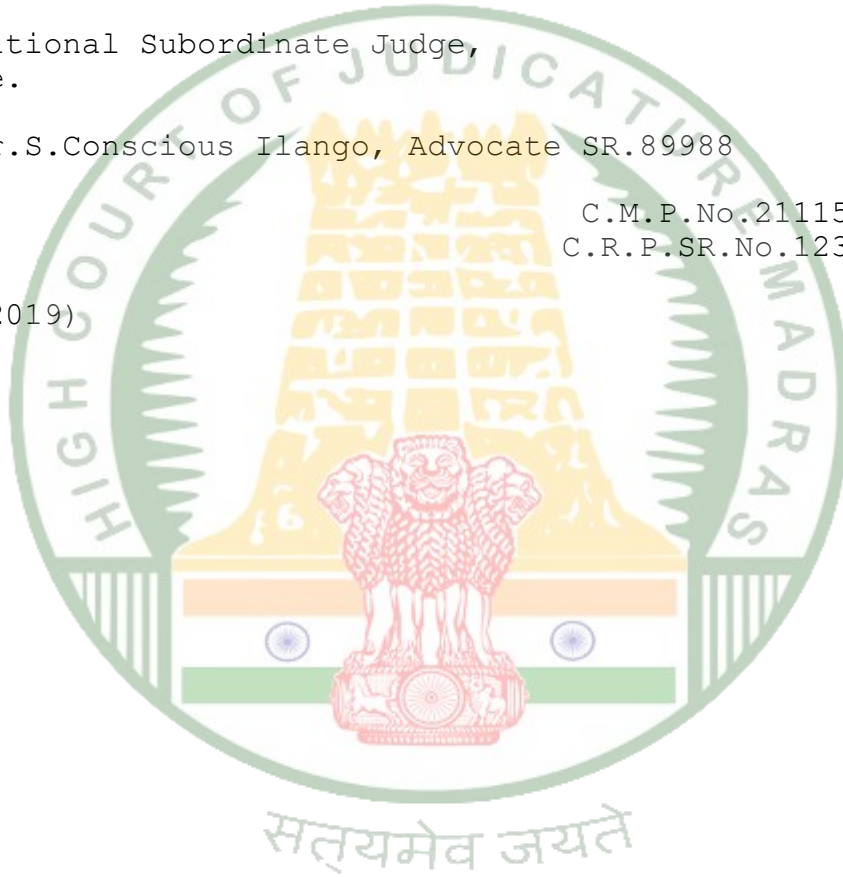
To

The I Additional Subordinate Judge,
Coimbatore.

+1cc to Mr.S.Conscious Ilango, Advocate SR.89988

C.M.P.No.21115 of 2019 in
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SPD(CO)
CB(26/11/2019)



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