

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.10.2019

CORAM:

THE HONOURABLE Mr. JUSTICE R.SURESH KUMAR

C.R.P. (PD) Nos. 3445 & 3446 of 2019 and
C.M.P. Nos. 22637 & 22640 of 2019

Sivaprakash

... Petitioner in both CRPs

Vs.

Savithri

... Respondent in both CRPs

Prayer: Petitions filed under Article 227 of the Constitution of India praying to set aside the fair and decretal order dated 13.09.2019 made in I.A.Nos.3 and 4 of 2019 respectively in O.S.No.375 of 2014 on the file of the Principal District Munsif Court, Erode.

For Petitioner : Mr.M.Guruprasad

COMMON ORDER

These two revision petitions have been filed against the fair and decretal order passed in I.A.Nos.3 & 4 of 2019 in O.S.No.375 of 2014 by the Principal District Munsif Court, Erode, by order dated 13.09.2019.

2.Before the trial Court, the revision petitioner is the plaintiff and the respondent herein is the 3rd defendant.

3.Among various defendants, the respondent/3rd defendant, according to the learned counsel for the revision petitioner, had been in exparte for long years and thereafter, she seems to have filed a petition to set aside the exparte order and accordingly, she was permitted to contest the suit and she had entered appearance in February, 2019 and filed written statement.

4.The learned counsel for the petitioner submits that, thereafter, the plaintiff evidence was taken and plaintiff himself stood as P.W.1 and the evidence of plaintiff/revision petitioner was closed on 27.08.2019, till such time, the 3rd defendant/respondent did not come forward to cross examine the

P.W.1, but purposely i.e., after closing of the evidence of the plaintiff, she filed the present applications only on 28.08.2019 and therefore, the said applications ought not to have been allowed by the learned Judge, but erroneously, without considering the said aspect in proper perspective, the learned Judge allowed the said applications, through the impugned order, as against which, the present revision petitions have been filed.

5.I have heard the said submission made by the learned counsel for the petitioners and I have gone through the materials placed before this Court.

6.No doubt, the respondent could have been in exparte for some years, but that issue had been concluded, once she had been permitted to contest the suit and thereafter, she seems to have entered appearance in February, 2019 and filed written statement on her own.

7.Since several defendants are there in the suit, every defendants has got his/her own right as provided under the law, especially under the procedural law in Civil Procedure Code and therefore, if at all the 3rd defendant/respondent wanted to cross examine the P.W.1 and in this regard, since she has filed the petition only within 24 hours from the date of closing of the evidence, the learned Judge, having considered the said aspect and in order to give a chance to the respondent/3rd defendant to put forward her case by making a cross examination of P.W.1, allowing those applications, of course, on terms.

8.The said orders, which are impugned herein, in the considered opinion of this Court, are not infirmed and they do not require any interference from this Court in the given facts and circumstances of the case. Therefore, these Civil Revision Petitions fail and hence, they are dismissed. No costs. Connected M.Ps are also dismissed.

सत्यमेव जयते
Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

Sgl

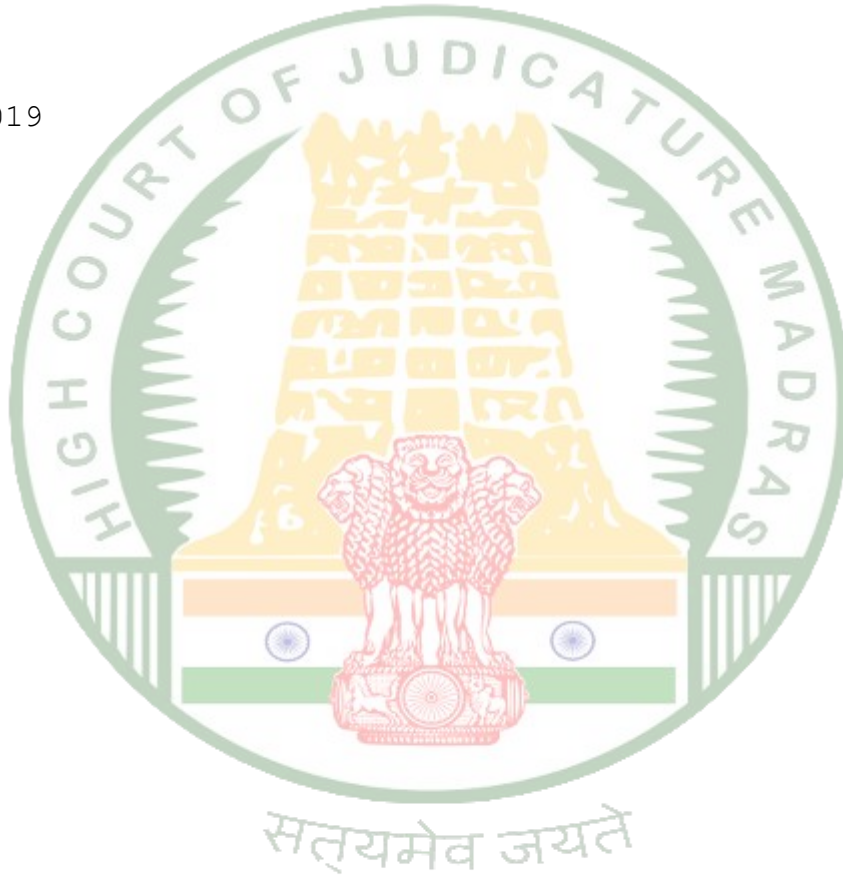
To

The Principal District Munsif Court,
Erode.

+1 cc to Mr.M.Guruprasad Advocate sr89287

C.R.P. (PD) Nos.3445 & 3446 of 2019

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