

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2019

CORAM

THE HONOURABLE **Ms.JUSTICE P.T.ASHA**

CRP(PD).No.2995 of 2018

and

C.M.P.Nos.21485, 17386 of 2018

1.M/s Muralikrishna Enterprises
Represented by its Proprietor
P.Sivanantham
Carrying on business at
No.16 Court Road, Johnsonpet
Hasthampatti
Salem 7

2.P.Sivanantham .. Plaintiffs/Revision Petitioners

Vs

1.M.V.Balasubramaniam
2.Latha
3.Janavi
4.The Manager,
M/s Andhra Bank,
Second Agraharam,
Salem 1.

.. Defendents/Respondents

Civil Revision Petition filed under Article 227 of the Indian
Constitution to set aside the order dated 17.09.2018 in O.S.No.120
of 2008 on the file of the learned Principal Subordinate Judge, Salem
and thereby, allow the present Civil Revision Petition.

For Petitioners : Mr.AR.L.Sundaresan,
Senior Counsel

For R1,R3 & R4 : M/s.S.Patrick
for Mr.K.Rajasekaran

ORDER

The above application has been filed by the plaintiffs, challenging the order of the learned District Judge, Salem, in closing the oral evidence of the plaintiffs on the very same day, on which it was posted for further evidence. The learned Judge then adjourned the case to another date for the defendants evidence. On that date, when the matter was called, the defendant's counsel has represented that there was no oral evidence for the defendants. The plaintiff was not present. The learned Judge endorsed that the plaintiff was absent and proceeded to hear the defendant's argument on the very same day and reserved judgment to 01.10.2018. Neither was liberty given to the plaintiff nor has notice been ordered directly to the the plaintiff. Since his counsel had reported no instructions, the learned Judge has closed the arguments of the plaintiff without giving an opportunity. This order is challenged in this revision. The respondent counsel is only aggrieved by the act of the petitioner indirectly approaching this court by way of Article 227 of the Constitution of India, before seeking remedy in the Trial Court. Considering the limited objection taken by the counsel for the respondents and the fact that he has no objection for allowing of the application. I deem it fit and appropriate to direct the revision petitioner to file an appropriate petition for re-opening the suit before

the Trial Court and based on the undertaking given by the counsel here the petition shall be allowed and the matter is ordered to be reopened to the stage of the plaintiff's further evidence. The learned Judge is directed to complete the trial within a period of two months from the date of receipt of copy of this order.

2. In the result, the Civil Revision Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are also disposed of.

06.02.2019

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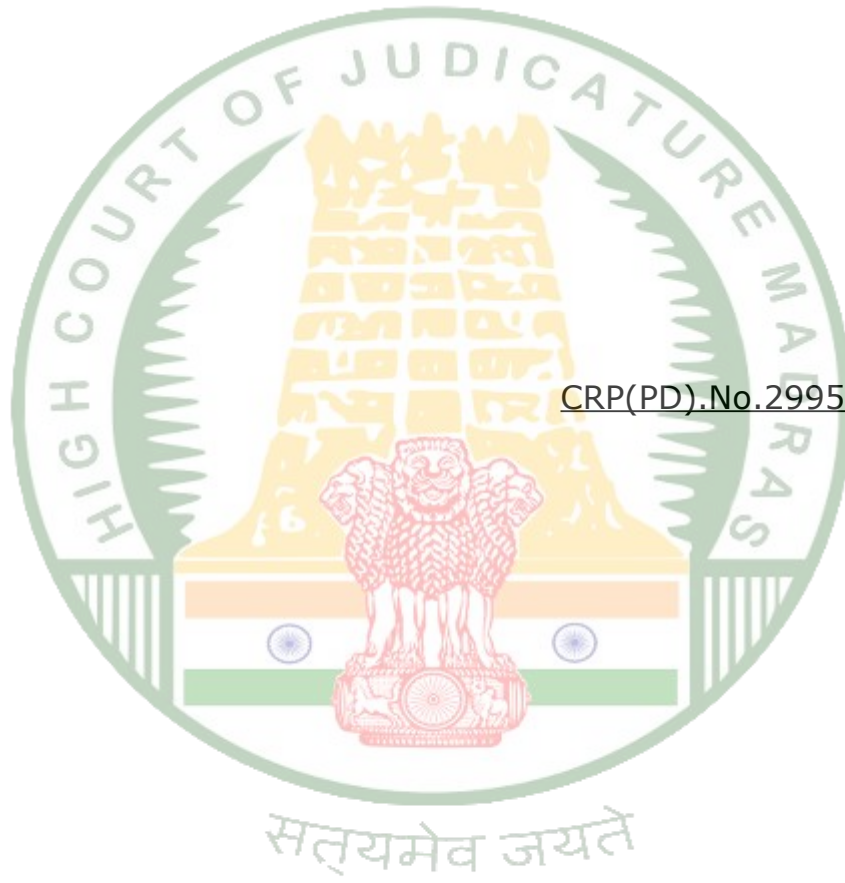
To

The learned Principal Subordinate Judge,
Salem.



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P.T.ASHA, J.
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