

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :26.03.2019

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P.(PD).No.3933 of 2018
and
CMP.No.21807 of 2018

1. R. Balakumar
2. R. Srinivasan
3. R. Madhanagopal
4. Choodamani
5. R. Narayanan
6. R. Suresh Babu

... Petitioners

-vs-

1. Pushpa
2. Tmt. Durga
3. C. Naresh
4. R. Srinivasan

... Respondents

Prayer: Petitions under Article 227 of the Constitution of India praying to set aside the impugned fair and decreetal order dated 13.06.2017 made in I.A.No.1000 of 2017 in O.S.No.5818 of 2010 pending on the file of II Assistant Judge, City Civil Court, Madras.

For Petitioners : Mr. Ravichandran C.

For Respondents : Ms. K .Leelavathy for R1 and R2
Mr. D. Palaniswamy for R3 and R4

O R D E R

This petition exhibits a total non-application of mind since the order impugned grants prayer which was not sought for.

2. The events which led to filing of this Civil Revision Petition are as follows:

The defendants in the suit have filed the Civil Revision Petition challenging the order passed in I.A.No.1000 of 2017 which is a petition filed by the 8th defendant Smt.Durga to have

the name of the 7th defendant deleted from the proof affidavit filed by herself and in the affidavit filed in support of the impugned Petition, she would state that the name of the 7th defendant may be deleted (eschewed) in the proof affidavit and to cross examine the 8th defendant. This being the prayer, the learned Judge without considering the averments contained in the affidavit has totally eschewed the affidavit of the 8th defendant who was cross examined as DW2 in toto.

3. The order is therefore modified on the following terms: Name of the 7th defendant Ms.Pushpa shall be deleted from the proof affidavit filed by the 8th defendant who has been cross examined as DW2 and the proof affidavit will be treated as the proof affidavit solely filed by the 8th defendant. The 8th defendant shall submit herself to further cross examination as assured by her in paragraph 3 of the affidavit filed in support of I.A.No.1000 of 2017. Civil Revision Petition is disposed of in the above terms. No costs. Consequently connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

mrn

To

The II Assistant Judge,
City Civil Court,
Madras.

+1 cc to M/s.C.Ravichandran, Advocate, S.R.No.28689

सत्यमेव जयते

C.R.P. (PD) .No.3933 of 2018
and

CMP.No.21807 of 2018

AD(CO)
SSM(29/03/2019).

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