

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.03.2019

CORAM

THE HONOURABLE MR. JUSTICE N.SATHISHKUMAR

C.M.A.No.3020 of 2018

and

C.M.P.No.22900 of 2018

1.H.K.Vijay Kumar

2.P.Vimala

3.H.K.Sridhar

4.H.K.Sudarshan

... Appellants

Vs

1.The Oriental Benefit and
Deposit Society Ltd.,
No.108, Audiappa Naicken St.,
Chennai - 600 079.
Represented by R2 and R3.

2.G.H.Krishnakumar

3.G.M.Gopukumar

4.South Indian Bank,
Mount Road Branch,
Anna Theatre Complex,
19, Mount Road,

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Chennai - 600 002.
Rep.by its Branch Manager

5. State Bank of Patiala,
50, Broadway,
Chennai - 600 108.
Rep. By its Branch Manager

6. Competent Authority and
District Revenue Officer,
Chennai Collectorate,
Chennai - 600 001. Respondents

PRAYER: Civil Miscellaneous Appeal has been filed against the fair and final order dated 20.08.2018 in I.A.No.24 of 2017 in O.A.No.3 of 2014 on the file of the TNPID Court at Chennai.

For Appellants : Mr.R.Rajesh

For Respondents : Mr.D.Suresh for R1 & R3.

R2 - No such person

R4 & R5 - No appearance.

Mr.N.Manikandan,
Government Advocate (CS)
for R6.

ORDER

This Civil Miscellaneous Appeal has been filed as against the order of the Special Judge in allowing the application to implead the appellants herein as legal representatives of the deceased 2nd respondent.

2.It is the contention of the learned Counsel for the appellants that the trial Court has proceeded in the said application on the premise that Mr.D.Suresh was appearing as the learned Counsel for the proposed parties which is not factually correct and in fact, the said Counsel was appearing only for respondents 1 to 3 and some other Counsel was appearing for the proposed parties. Without noticing that some other Counsel was appearing for the proposed parties, despite several adjournments counters have not been filed and hence, their counters in the said petition were dispensed with and ex parte order has been passed.

3.The further contention of the learned Counsel for the appellants is that 2nd respondent has been arrayed in the above proceedings as a Director of the above company. After his death, his legal heirs cannot be brought on record as the properties involved are company's properties and hence, submitted that the entire order of the trial Court has to be set aside.

4.The learned Government Advocate appearing for 6th respondent has submitted that though Mr.D.Suresh is not the Counsel for the appellants and some other Counsel was appearing for the appellants, counters have not been filed even by that Counsel despite several opportunities and therefore, the trial Court has rightly ordered the said application. In view of the fact that the trial Court has wrongly recorded that the appellants herein are represented by the learned Counsel Mr.D.Suresh, I am of the view that the order of the trial Court is required to be set aside.

5.Accordingly, the trial Court is hereby directed to hear the parties mainly on the submissions of the learned Counsel for the appellants herein that the property attached is a company property and legal representatives are not necessary to be impleaded and accordingly shall verify as to whether the legal representatives of the director of the company can be brought on record and pass order on merits after receiving counters from all the respondents within two months from the date of receipt of the copy of this order.

6.It is also brought to the notice of this Court that pursuant to the order of the trial Court, the cause title has also been amended by impleading the appellants herein as the legal representatives of the deceased 2nd respondent.

7.Hence, the trial Court shall permit the appellants herein to amend the cause title and shall hear the application in fresh and pass order on merits in accordance with law by taking into consideration of the submissions of the parties.

8.In the result, this Civil Miscellaneous Appeal is allowed and the order of the trial Court is set aside. Consequently, connected miscellaneous petition is closed. The trial Court shall dispose of the said application within two months from the date of receipt of the copy of this order as per the above directions.

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19.03.2019

Index: Yes/No
Internet: Yes/No

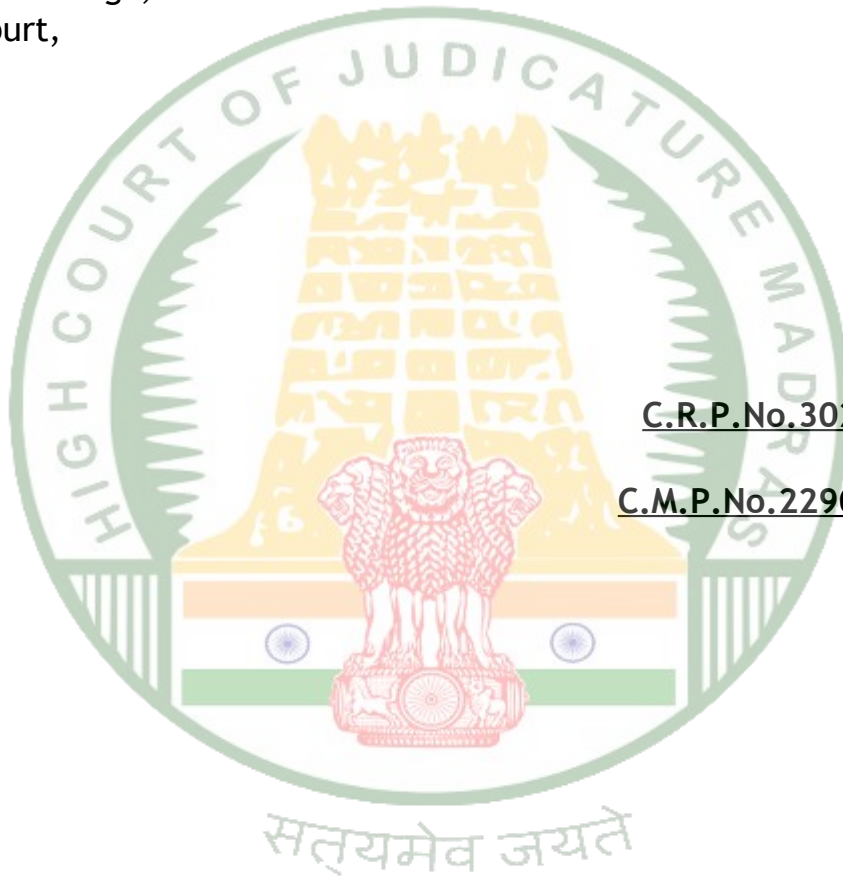
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N.SATHISHKUMAR,J.

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To

The Special Judge,
TNPID Court,
Chennai.



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