

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :12.02.2019

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P.(PD).Nos.4358 & 4314 of 2018
and
C.M.P.Nos.23850,23853 & 23615,23617 of 2018

C.R.P.(PD).No.4358 of 2018
and
C.M.P.Nos.23850 & 23853 of 2018

A. Indira Anand ... Petitioner/Petitioner/
3rd Defendant

-VS-

1.M/s. Prasad Production Pvt. Ltd
Represented by its Managing Director,
A. Ramesh Prasad
No.28, Arunachalam Road,
Saligramam, Chennai-600 093 ... Respondent1/Respondent1
/1st Plaintiff

2.Manohar Prasad ... Respondent 2/Respondent3
/1st Defendant

3. Sai Siva Jyothi ... Respondent 3/Respondent4
/2nd Defendant

4.A. Lakshmi Ananthi ... Respondent 4/Respondent 5

5.A. Anjali Krishnamami (Minor)
Represented by her mother and
natural guardian Sai Siva Jyothi ... Respondent 5/ Respondent 6
/3-5 Defendants

PRAYER:

Civil Revision Petition filed under Article 227 of Constitution of India, against the Fair and Decretal Order dated 13.12.2018 in I.A.No.14629 of 2018 in O.S.No.13825 of 2010 passed by the VI Additional City Civil Judge, Chennai.

For Petitioner : M/s. Rajendra Kumar

For respondents : Mr. S. Raghunathan for R1
Mr. Vineet Subramani for R2
Mr. Praheled Bhat for RR3 & 4
(R5 -Minor represented by R3)
M/s. C.B.Meena, Official Assignee
representing Estate of Insolvent

C.R.P.(PD).No. 4314 of 2018
and C.M.P.Nos.23615 & 23617 of 2018

A. Indira Anand ... Petitioner/Respondent 3

-VS-

1.M/s. Prasad Production Pvt. Ltd
Represented by its Managing Director,
A. Ramesh Prasad
No.28, Arunachalam Road,
Saligramam, Chennai-600 093 ... Respondent1/Petitioner

2.The Official Assignee
Madras High Court,
Chennai 600 014 ... Respondent 2/Respondent 7

3.Manohar Prasad ... Respondent 3/Respondent2

4. Sai Siva Jyothi ...Respondent 4/Respondent4

5.A. Lakshmi Ananthi ...Respondent5/Respondent 5

5.A. Anjali Krishnamami (Minor)
Represented by her mother and
natural guardian Sai Siva Jyothi ... Respondent 6/ Respondent 6

PRAYER:

Civil Revision Petition filed under Article 227 of Constitution of India, against the Fair and Decretal Order dated 13.12.2018 in I.A.No.14628 of 2018 in O.S.No.13825 of 2010 passed by the VI Additional Judge, City Civil Court, Chennai.

For Petitioner : M/s. Rajendra Kumar

For respondents : Mr. S. Raghunathan for R1
M/s. C.B.Meena,
Official Assignee for R2
Mr. Vineet Subramani for R3
Mr. Praheled Bhat for RR4 &5
(R6-Minor represented by R4)

COMMON ORDER

The above Civil Revision Petition No.4358/2018 is filed praying to set aside the Order dated 13.12.2018 in I.A.No.14629 of 2018 in O.S.No.13825 of 2010 praying to strike off the revision petitioner who is arrayed as 3rd defendant in the suit and who has been improperly joined as a party to the suit. The suit is filed by the 1st respondent for recovery of possession of the suit property. In paragraph no 7 of the affidavit filed in support of I.A.No.4169 of 2018, the Revision Petitioner has stated as follows:

"7. I submit that, I have nothing to do whatsoever either with delivery of possession of the suit property or with the claim of mesne profit or maintenance charges as

claimed by the plaintiff. The deceased 1st Defendant A. Ravishankar Prasad is my son. I do not have anything to do with the suit property nor I have ever resided in the suit property. It was only my 2 sons i.e. Initially 1st defendant late A. Ravishankar Prasad and subsequently my younger son the 2nd defendant, A. Manohar Prasad who have any connection to the suit property. I have all along only being residing in my independent bungalow at Adyar”

A reading of the above statement, makes it clear that the revision petitioner was not in possession of the property and has got nothing to do with the same and therefore, she is not a necessary party in the suit and has been improperly joined; hence, her name is to be struck off. Accordingly, CRP.No.4358 of 2018 is to be allowed.

2. CRP No.4314 of 2018 has been filed challenging the order passed in I.A.No.14628 of 2018 whereby the Revision Petitioner along with the other defendants are directed to be represented by the Official Assignee.

3.The Official Assignee would submit that the revision petitioner is the legal heir of the deceased /1st defendant who has has not been declared as an insolvent.

4. In the light of the above submission of learned Official Assignee the order directing the Revision Petitioner to be represented by Official Assignee is erroneous and hence the order has to be set aside.

5. Taking note of the averments made in CRP.No.4358 /2018, this Court is of the view that Order passed in I.A.No.14268 of 2018 dated 13.12.2018 , the petitioner is neither a necessary party nor a proper party to suit. In view of the above, both the CRP.(PD)Nos.4358 and 4314 of 2018 are allowed and the orders passed in I.A.Nos.14628 & 14269 of 2018 in O.S.No.13825 of 2010 dated 13.12.2018 are set aside. No costs. Consequently, connected Civil Miscellaneous Petitions are closed.

सत्यमेव जयते

12.02.2019

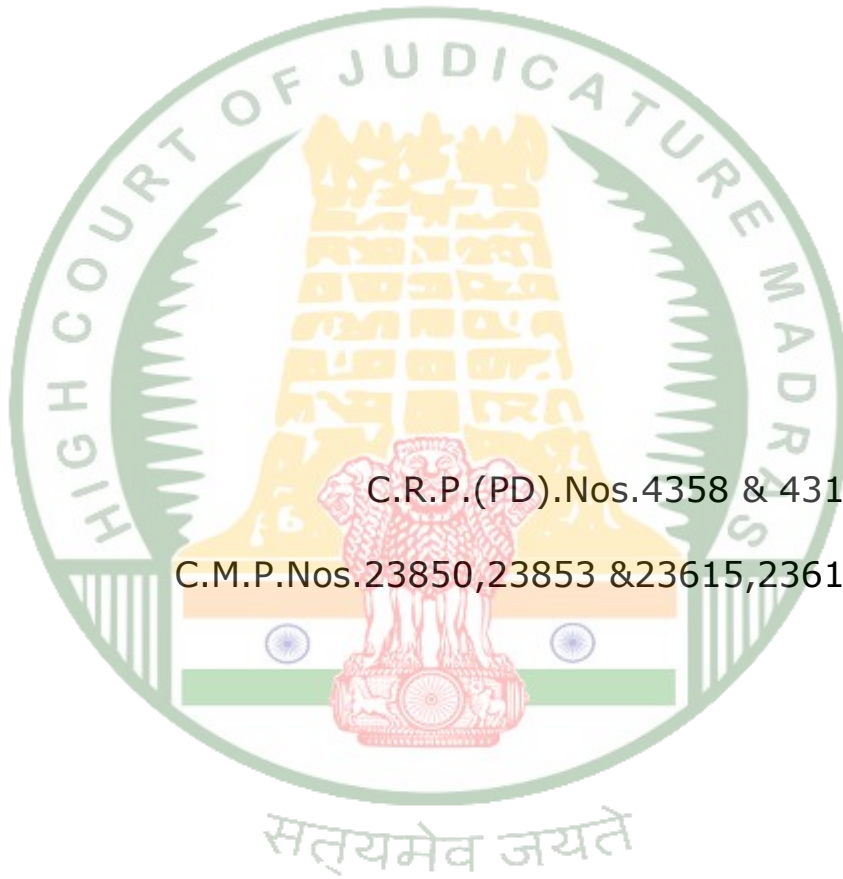
Index : Yes/No
Internet : Yes / No
Speaking/non-speaking order

jrs

To
The VI Additional City Civil Judge,
Chennai.

P.T.ASHA.J.,

jrs



C.R.P.(PD).Nos.4358 & 4314 of 2018
and
C.M.P.Nos.23850,23853 &23615,23617 of 2018

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