



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.04.2019

CORAM :

THE HONOURABLE MRS.JUSTICE **S.RAMATHILAGAM**

CRP (MD) No.2560 of 2017

and

C.M.P. (MD) No.11909 of 2017

and

C.M.P. (MD) No.11017 of 2018

Abdul Kareem

... Petitioner/Petitioner/Defendant

vs.

Balakrishnan

... Respondent/Respondent/Plaintiff

PRAYER:- Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 04.11.2017 made in I.A.No.302 of 2012 in O.S.No.82 of 2012 on the file of the learned Additional Subordinate Judge, Kumbakonam.

For Petitioner : Mr.V.Chandrasekar

For Respondent : Mr.A.Rahul

ORDER

This Civil Revision Petition has been filed to set aside the order dated 04.11.2017 made in I.A.No.302 of 2012 in O.S.No.82 of 2012 on the file of the learned Additional Subordinate Judge, Kumbakonam.

2.During the pendency of the revision, this Court granted an order of interim stay on 22.12.2017 in C.M.P.(MD) No.11909 of 2017 in C.R.P.(MD) No.2560 of 2017 and now, the petition in C.M.P.(MD) No.11017 of 2018 has been filed to vacate the order of interim stay granted on 22.12.2017 in C.M.P.(MD) No.11909 of 2017 in C.R.P.(MD) No.2560 of 2017.

3.The petitioner contended that the respondent has filed a suit in O.S.No.82 of 2012 for recovery of possession of the suit property and to declare the sale deed dated 08.03.2002 as forged one and declare the same as null and void. On filing the application in I.A.No.302 of 2012 to frame a preliminary issue regarding the Court fee paid and payable for the suit, a counter was filed by the respondent. The said application was closed by observing the fact that the payment of Court fee and determination of market value is a mixtured question of facts and law and the same could not be decided by the interlocutory application. Aggrieved by the said order, the petitioner filed C.R.P.(MD)



No.2560 of 2017, in which, the interim stay was granted on 22.12.2017.

4.It is the grievance of the petitioner herein that the said suit is pending for the past 6 years and the petitioner is 50 years old and suffering from heart ailment. Now, the petitioner contended that he is ready and willing to pay the Court fee.

5.Considering the facts and circumstances of the case, the interim stay already granted on 22.12.2017 in C.M.P.(MD) No.11909 of 2017 in C.R.P.(MD) No.2560 of 2017, is vacated and the petitioner is directed to pay the Court fee, as required.

6.This Civil Revision Petition is disposed of accordingly. The learned Additional Subordinate Judge, Kumbakonam, is directed to dispose of the suit in O.S.No.82 of 2012 within a period of six months from the date of receipt of a copy of this order and both parties are directed to co-operate for early disposal of the suit in O.S.No.82 of 2012. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

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To
The Additional Subordinate Judge,
Kumbakonam.

+1CC TO MR.A.RAHUL, Advocate Sr. No.62289

+1CC TO MR.CHANDRASEKAR, Advocate Sr. No. 61838

C.R.P. (MD) No.2560 of 2017
22.04.2019

SCR(CO)
TR (04.06.2019) 2P 4C