

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.07.2020

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE KRISHNAN RAMASAMY

OSA No.52 of 2020
and CMP No.1692 of 2020

Shanthi @ Yazhini ... Appellant

vs.

1.K.Harikrishnan
2.M.S.Chandrasekar @ Kevin Chandrasekar
3.Sulochana Ammal
4.M.S.Basker ... Respondents

Prayer ::- Appeal filed against the order dated 8.1.2020 in A.Sr.No.148354/2019 in A.No.8906/19 in C.S.345/19.

Prayer: Application praying that this Hon'ble court be pleased to set aside the order dated 22/11/2019 in Application the 8906/2019 in C.S.No.345 at 2019 disposed on merits.

For Appellant : Mr.A.Ramesh
for Mr.N.Sankarasubbu

For Respondents: Mr.NissarAhmed,
for 4th respondent
Mr.Sirish Chowdary,
for 1st respondent

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JUDGMENT

(Delivered by DR.VINEET KOTHARI, J.)

The Court was held by Video Conference, as per the Resolution of the Full Court dated 3 July 2020, by Judges at their respective residence and the counsel, staff of the Court appearing from their respective residences.

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2. This appeal has been filed by the appellant Mrs.Shanthi @ Yazhini against Mr.K.Harikrishnan and three others, aggrieved by the order dated 08.01.2020 in A.Sr.No.148354/2019 on the ground that it is not maintainable. The said A.Sr.No.148354/2019 was filed to set aside the order dated 22.11.2019 made in Application No.8906 of 2019, which was filed to implead the appellant as the fourth defendant in the Civil Suit No.345 of 2019 filed by the plaintiff Harikrishnan against M/s.Chandrasekar @ Kevin Chandrasekar for possession.

3. The order of the learned single Judge dismissing the Application No.8906 of 2019, as devoid of merits and further posting the Civil Suit No.345 of 2019 before the Master for recording further evidence in the matter is also assailed before us. It was brought to our notice that since the cause of the applicant in the said application namely Shanthi @ Yazhini could not be properly represented before the learned single Judge, the trial Court, the said application came to be dismissed with the observations as being devoid of merits, whereas there is no discussion on the submissions made in the application and counter submissions. Therefore, the present intra court appeal has been filed before the Division Bench of this Court.

4. We have heard Mr.A.Ramesh for the appellants, Mr.Sirish Chowdhary, learned counsel appears for the 1st respondent and Mr.Nissar Ahmed, learned counsel appears for the 4th respondent.

5. From a perusal of the aforesaid brief orders of the learned single Judge, we do not find any discussion on the merits or contentions raised in both the applications, which were disposed of by the respective learned single Judge. Therefore, the dismissal of the said applications on the ground that A.Sr.No.148354/2019 is not maintainable and A.No.8906 of 2019 is devoid of merits, is not sustainable. Accordingly, we allow the present appeal, setting aside the above said orders of the learned single Judge dated 08 January 2020 and 22 November 2019 and we remit the matter back to the learned single Judge for deciding the application A.No.8906 of 2019, again, on merits and in accordance with law, after giving opportunity of hearing to both the parties. Accordingly, the present appeal is allowed and the matter is remanded back to the learned single Judge for deciding the aforesaid application again in accordance with law.

6. With these observations, the appeal is disposed of. There is no order as to costs. Consequently, CMP No.1692 of 2020 is also closed.

Sd/-
Assistant Registrar (CS-III)

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Sub Assistant Registrar

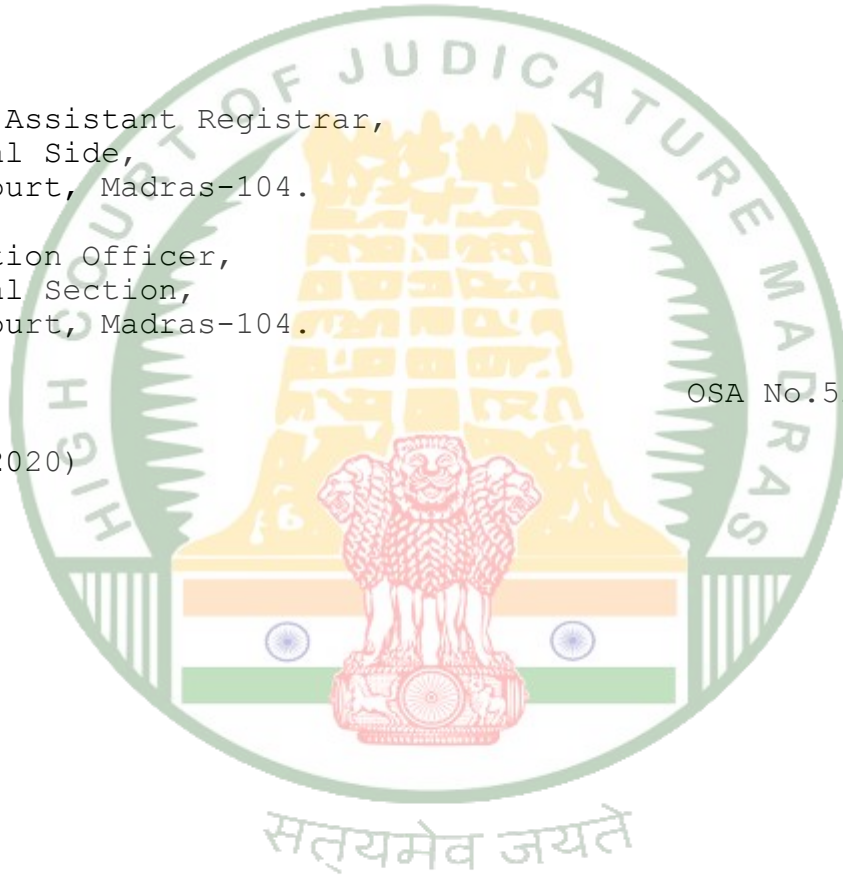
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To

- 1.The Sub Assistant Registrar,
Original Side,
High Court, Madras-104.
- 2.The Section Officer,
Judicial Section,
High Court, Madras-104.

OSA No.52 of 2020

PP (CO)
CB (15/10/2020)



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