

C.R.P. PD 283 of 2019
and
C.M.P.s 2142 & 21318 of 2019

V.BHARATHIDASAN

This Civil Revision Petition has been filed against the order directing the petitioner to deposit 50% of the suit claim, while allowing the application seeking leave to defend the suit.

2. The respondent has filed a suit for recovery of money. Since the suit is being a summary suit, the petitioner/defendant has some triable issues in the suit, he has filed an application seeking leave to defend the suit. The court below allowed the application, however, directed the petitioner to deposit 50% of the suit claim. Against the order of imposing the above condition, the present Civil Revision Petition has been filed.

3. Mr.V.Lakshminarayanan, learned counsel appearing for petitioner would submit that, already, the respondent/plaintiff filed an application for attachment before judgment in I.A. 6609

of 2018 in O.S.2521 of 2018. The Trial Court has directed the petitioner to furnish security. Pursuant to the same, the petitioner has furnished immovable property as security, and the Court below has also accepted the same. When the respondent/plaintiff has already been secured, there is no necessity to deposit the suit claim.

4. Per contra, Mr.R.Vasudevan, learned counsel appearing for respondent would contend that, even though the petitioner has furnished unregistered document as security, the same was not accepted by the Trial Court, the petitioner cannot dispute to pay 50% of the suit claim as directed by the Court below. Hence, he may be directed to deposit the same.

5. I have heard and considered the rival submissions made by learned counsel appearing for petitioner as well as learned counsel appearing for respondent and perused the records carefully.

6. Considering the fact that, already an order has been passed directing the petitioner to furnish security, now, there is a dispute, whether the security is acceptable or not. If the

plaintiff has secured, there is no necessity to pay further 50% of the suit claim, that too in a application filed for seeking leave to defend the suit. However, considering the dispute, whether the security could be acceptable or not, the learned XVIII Addl. Judge, City Civil Court, Chennai is directed to pass orders in I.A. 6609 of 2018 in O.S. 2521 of 2018 on or before 24.01.2020. Thereafter, post the matter for further hearing on 29.01.2020.

7. At this stage, Mr.V.Lakshminarayanan, learned counsel appearing for petitioner submitted that, he has filed an application under Sec.45 of Evidence Act to send the disputed document for chemical analysis. But, the Trial Court is refusing to number the application and kept it pending. Hence, the learned counsel submitted that, the Trial Court may be directed to number that application, and to proceed further for conducting an enquiry.

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8. Considering the facts and circumstances, the Trial Court is directed to number the I.A. SR. 25932 of 2019, and proceed further by conducting an enquiry.

9. Post the matter on 29.01.2020.

19.12.2019

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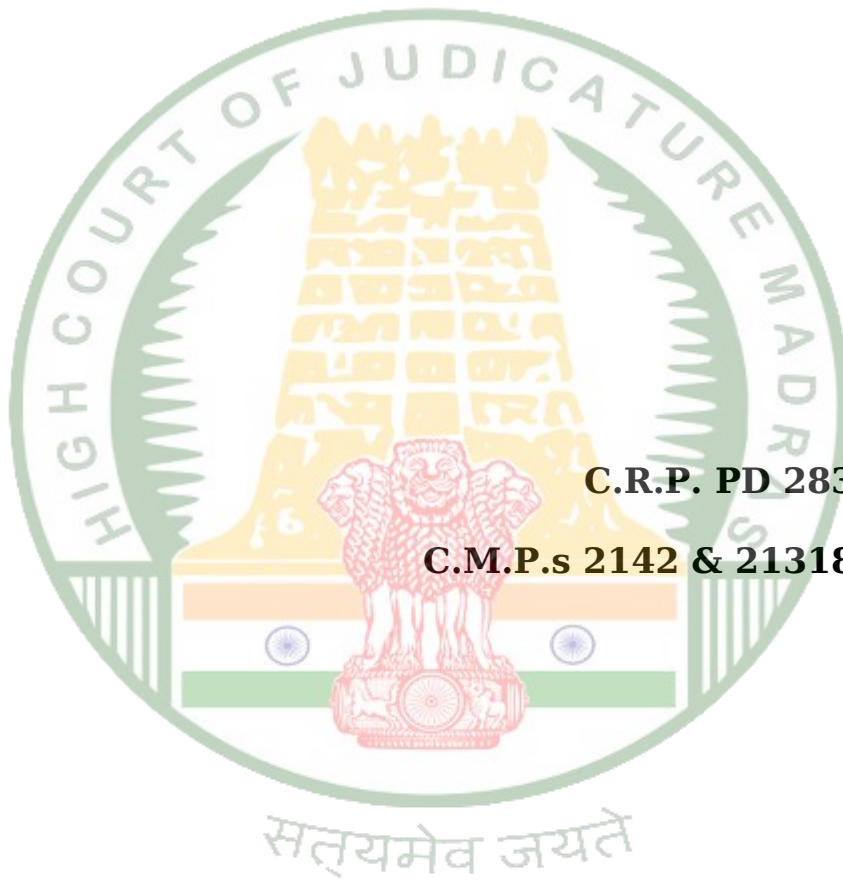
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V.BHARATHIDASAN,J.

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