

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.03.2020

Coram

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

CRP (PD) No.1017 of 2020 and

CMP No.5591 of 2020

B.Shanthi

... Petitioner

Vs.

1. Raja

2. V.Alamelu

... Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order passed in I.A.No.12488 of 2018 in O.S.No.791 of 2015 by the XI Assistant City Civil Court, Chennai on 30.10.2019.

For Petitioner : Mr.G.Veerapathiran

For Respondent : Mr.R.Thangamani for Caveator
(for R1)

O R D E R

This Civil Revision Petition has been filed to set aside the fair and decreetal order passed in I.A.No.12488 of 2018 in O.S.No.791 of 2015 by the XI Assistant City Civil Court, Chennai on 30.10.2019.

2. The petitioner herein is the first defendant in the above said suit and the first respondent herein/plaintiff has filed the suit against the petitioner herein and the 2nd respondent herein for permanent injunction restraining them from disturbing his peaceful possession and enjoyment of the suit property and from running his shop. Pending suit, the plaintiff filed a petition in I.A.No.12488 of 2018 to amend the plaint by making the following amendments.

" To be amended the following lines in the Paragraph 3 & 4 and the prayer (A)

i) " father of plaintiff and on the human sake he has paid Rs.50/- every month for her hand expenses"

ii) belongs to her mentioned in Survey No.1802/B-41 bearing Door Old No.7, New No.8 to an extent of 864 sq.f. It is the fact this is the original extent was owned by Kokilammal and later on it was settled to the defendant 1 herein".

" Prayer (A) for declaration declaring that the suit schedule property mentioned in Survey No.1802/3 in door New No.7 part as per the settlement deed executed in favour of the plaintiff in document No.196 of 2015 dated 21.01.2015".

3. The first defendant/ petitioner herein filed counter affidavit by stating that the above said application is not maintainable and she has no right to execute any sale deed in favour of the plaintiff and hence, the prayer of declaration, as stated in the amendment petition is not maintainable .

4. The Trial court allowed the amendment petition. Challenging the order passed by the Trial court, this civil revision petition has been filed.

5. The learned counsel appearing for the petitioner/first defendant submitted that the Trial court, without considering the contentions raised in the counter affidavit, has allowed the petition, without giving any reasons to allow the said application and hence, the same is liable to set aside.

6. The learned counsel appearing for the first respondent/plaintiff submitted that even though the petitioner/first defendant objected to allow the petition, no prejudice would be caused to the her, since all the contentions raised in the counter affidavit will be determined at the stage of trial.

7. I have perused the orders passed by the Trial Court. The Trial Court has not assigned sufficient reasons to allow the application. Hence, this court is not satisfied in the manner of the orders passed by the Trial Court, since it is not a reasoned order. Therefore, there is no hesitation to set aside the orders passed by the Trial Court.

8. Accordingly, this court is inclined to pass the following orders.

i) The fair and decreetal order passed by the Trial court in I.A.No.12488 of 2018 in O.S.No.791 of 2015 dated 30.10.2019 is set aside.

ii) The Trial court is directed to dispose of the application in I.A.No.12488 of 2018 in O.S.No.791 of 2015 afresh, within a period of two months from the date of receipt of a copy of this order, on merits, by giving reasons.

9. With the above directions, this civil revision petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mst

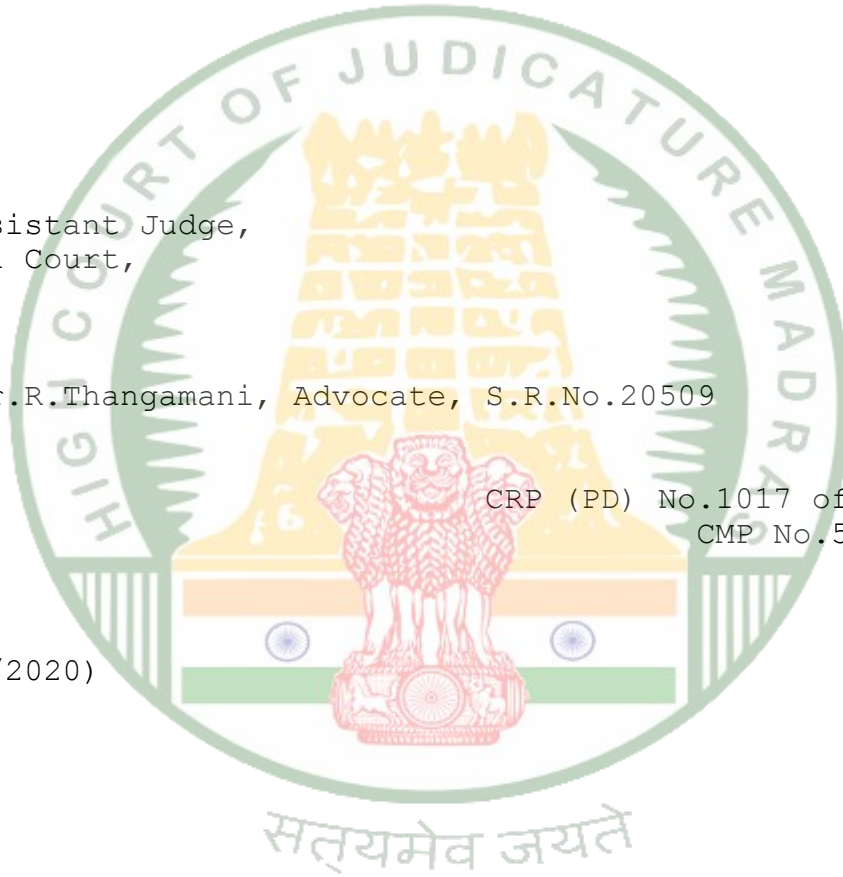
To

The XI Assistant Judge,
City Civil Court,
Chennai.

+lcc to Mr.R.Thangamani, Advocate, S.R.No.20509

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nvi (28/05/2020)



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