

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2020

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Rev.Appl.No.102 of 2020

1. S. Ramanan (deceased)
2. M/s. Auromira Partnership Firm,
through Mr. Veerapaneni Ravikanth,
Managing Partner, Trichy Road,
Ramanathapuram, Coimbatore.

(2nd petitioner is brought on record
as LR of the deceased sole petitioner
viz., S.Ramanan vide order of this
Court dated 14.11.2019 made in
C.M.P.No.8748 of 2019 in
CRP.No.531/2018)

... Petitioner

/vs/
सत्यमेव जयते

1. The Idol of Sri. Patteswara Swami,
Perur, Coimbatore District,
Rep. by its Executive Officer/
Assistant Commissioner.

2. N. Vardarajan,

3. G. sankunthala,

4. G. Satish,

5. G. Meenakshi

6. D. Neelaveni

7. D. Thirugnanasambandan

8. D. Anuradha

9. D. Chandrasekhar

10. N. Muralidharan

11. M/s. Coimbatore Property India (Pvt) Ltd.,
rep. by its Director,
No.8, Rakavis Square, Rahuman Sait Colony,
Opp. Muthoot Finance,
Sowripalayam Road, Coimbatore 641 004.

Respondent

PRAYER:- Review petition has been filed under Section 114 r/w. Section 151 of CPC to exercise its review jurisdiction to review the order dated 12.05.2020 in CRP No.531 of 2018.

For Appellant : Mr. Shiva .P

For first Respondent : Mr. R. Baranidharan

J U D G M E N T

This Review application has been filed to review the order passed by this Court in CRP No.531 of 2018 dated 12.05.2020.

2. The main Revision Petition has been filed challenging the order passed by the I Additional District Judge, Coimbatore dismissing the Review Petitioner's application filed under Order 7 Rule 11 CPC to reject the plaint in a suit in O.S.NO.509 of 2016, before the I Additional District Court, Coimbatore. The said suit was filed by the first respondent temple for declaration, declaring that the plaintiff is the absolute owner of the suit schedule properties, and also for possession apart from various other incidental reliefs, which was originally pending before III Additional District Court. Another suit in O.S.NO.574 of 2011 was pending between the same parties on the file of the I Additional District Court, Coimbatore. Earlier an application was moved before this Court to transfer the suit in O.S.No.509 of 2016, which was pending on the file of the III Additional

District Court, Coimbatore, to the file of the I Additional District Court, Coimbatore, to try along with O.S.No.574 of 2011 and the same was allowed by this Court. Challenging the same, the original defendant, now deceased, one S.Ramanan filed a SLP before the Hon'ble Supreme Court in SLP(C).No.19523/2017. In the mean time, the deceased defendant also filed an application to reject the plaint in O.S.NO.509 of 2016 before the III Additional District Court, Coimbatore and arguments were also heard in the said application by the learned III Additional District Judge, Coimbatore. and same was reserved for orders. Before the Hon'ble Supreme court, a statement has been made that, the III Additional District Judge, Coimbatore, reserved the matter for pronouncing the order, before the order could be pronounced, the suit was transferred to other Court. Considering the above circumstances, the Hon'ble Supreme Court has disposed the SLP, by an order dated 18.08.2017, and the relevant portion of the order reads as follows:

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*" Having regard to the aforesaid position, we
are of the view that before O.S.No.509 of 2016 is*

transferred to the file of I Additional District Court, Coimbatore, the 3rd Additional District Court, Coimbatore, with whom the suit is pending at present, shall pass the order on the application under Order VII Rule 11 in the event the order has been reserved by the said Court."

3. In the mean time, the I Additional District Judge, Coimbatore, before whom the suit was transferred, after hearing the argument of the parties, dismissed the application by an order dated 15.11.2017, which was the subject matter in the main revision petition before this Court.

4. At the time of hearing the main revision, Mr. B.S.Gnanadesikan, learned Senior Counsel, who was appearing for the revision petitioner would submit that as per the order passed by the Hon'ble Supreme Court, only III Additional District Judge, has to pass order in the application. However, the I Additional District Judge, to whom, the suit was transferred, has passed the order dismissing the application against the directions issued by the

Hon'ble Supreme Court.

5. Mr.S.R.Rajagopal, learned senior counsel, appearing for the first respondent would submit that before the order being passed by the Hon'ble Supreme Court on 18.08.2017, the suit was transferred to the I Additional District Court, Coimbatore and arguments were also advanced in the application and the suit was not pending on the file of III Additional District Court on 18.08.2017. Unfortunately, that was not brought to the notice of the Hon'ble Supreme Court while passing the order. The Hon'ble Supreme Court passed the order in the SLP under the impression that the suit was pending on the file of the III Additional District Court. In the said circumstances, the order passed by the I Additional District Court is perverse order and there is no need to set aside the order on that ground.

6. After advancing elaborate arguments on that issue, the learned Senior Counsel appearing for the petitioner, on instructions, submitted submit that the petitioner is not insisting on that issue and he is also giving up that ground and he is inclined to argue the main revision on merit. The learned counsel appearing for the first respondent also agreed for the same.

Thereafter, the learned counsel appearing for the parties advanced elaborate arguments on merits and after considering the submissions, this Court, by an order dated 12.05.2020, dismissed the revision petition.

7. Now, the present Review petition has been filed through another counsel, who is not the counsel appeared for the petitioner in the main revision petition, on the ground that the order impugned in the revision petition has been passed by the I Additional District Judge, Coimbatore instead of the III Additional District Judge, Coimbatore, as against the order passed by the Hon'ble Supreme Court and that issue was not considered by this Court, while disposing the revision petition. That apart, he has also raised various grounds on the merits of the case. Now, the Review petition is listed today and the matter has been heard through video conferencing. Mr. R.Baranidharan, learned counsel appearing for the first respondent Temple also joined in the video conferencing.

8. Heard both sides and perused the materials available on records carefully.

9. The learned counsel appearing for the review petitioner would submit that the order impugned in the main revision has been passed by the I Additional District Judge without considering the order passed by the Hon'ble Supreme Court, wherein, the III Additional District Judge was directed to dispose the application and on that ground, the order is liable to be set aside.

10. After giving up the issue and argued the matter on merits, now it is not open to the petitioner to contend that the said issue was not decided by the Court and on that reason, the revision petitioner cannot maintain this petition. It is not an error apparent on the face of record. That apart, it is also stated by the learned counsel appearing for the respondent/temple that when the SLP was taken up for hearing before the Hon'ble Supreme Court, the suit was transferred to the I Additional District Court and the same was pending on its file along with interim application and the IA was not pending on the file of III Additional District Court. From the perusal of the order passed by the Hon'ble Supreme Court, it could be seen that the

Hon'ble Supreme Court only directed the III Additional District Court, Coimbatore, to pass orders on the application in the event of the order has been reserved and there is no positive direction to the III Additional District Judge, to dispose the application. So far as the other grounds raised by the revision petitioner are concerned, it is only on the merits of the case, which has already been considered by this Court, and it is not open to the revision petitioner to raise those grounds by way of review. Considering all those circumstances, I find no merits in the review petition and the Review petition is liable to be dismissed.

11. Accordingly, the Review Petition is dismissed.

23.11.2020

mrp

To

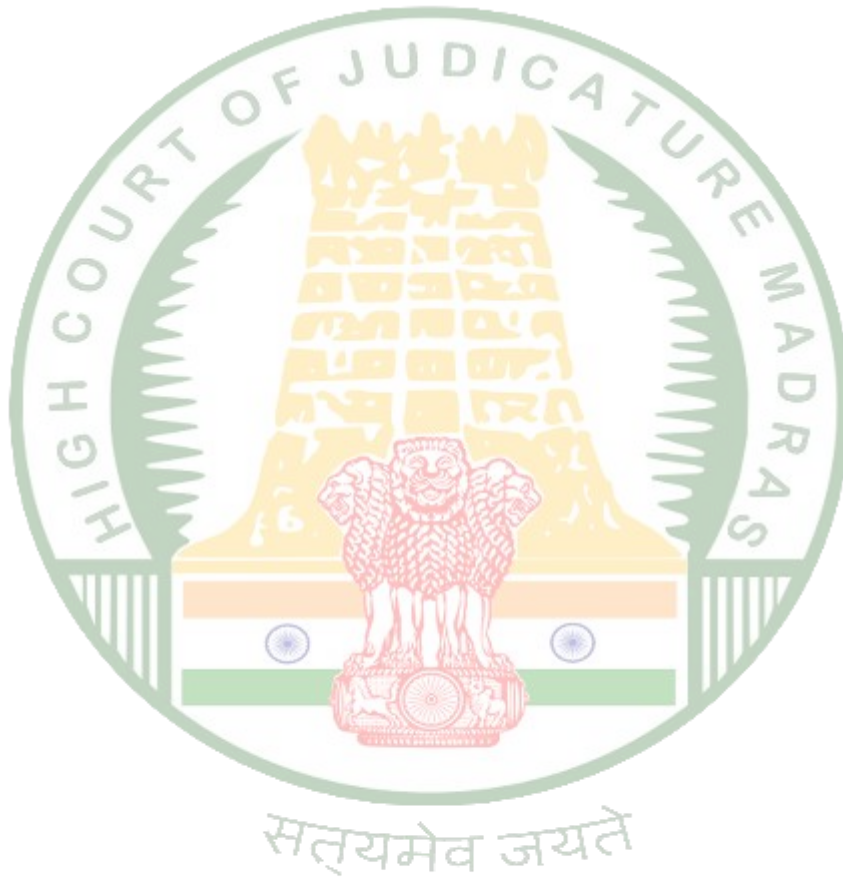
The Motor Accidents Claims Tribunal,
Sessions Court, Perambalur.

NOTE : Issue order copy on 17.12.2020

Index : yes/ no

Internet : yes/No

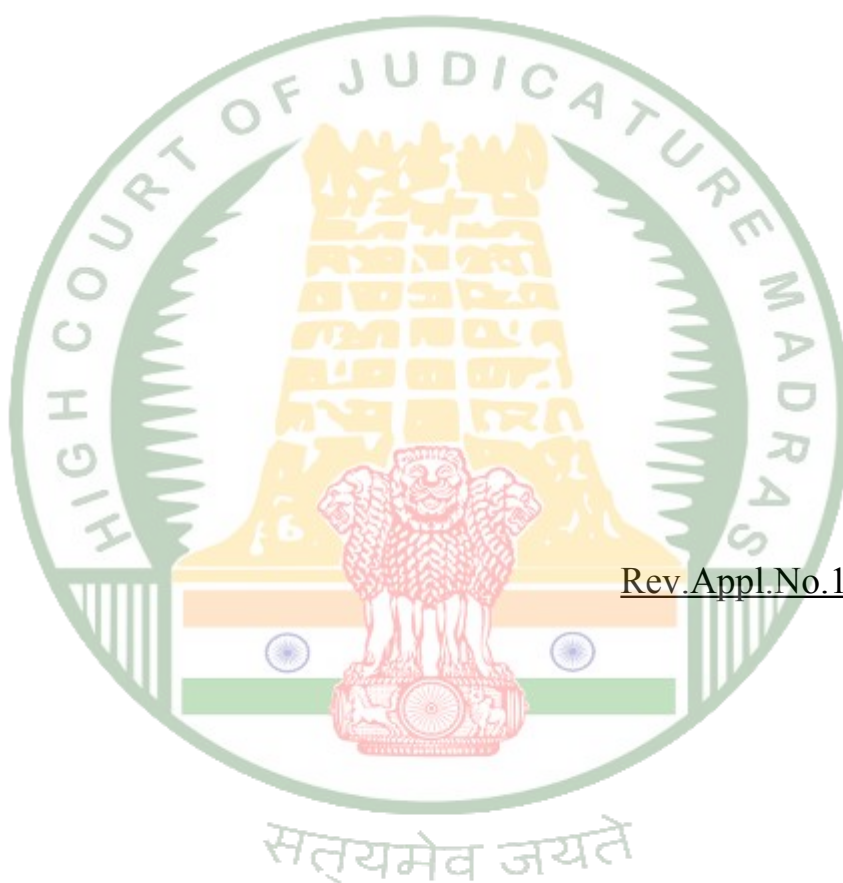
Speaking order/ non speaking order



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V. BHARATHIDASAN, J.,

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