

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P. (PD) No.2795 of 2018
and CMP No.16365 of 2018

1. A.N. Tamilselvan

2. N.Ganesan

... Petitioners

Vs.

1. R.Chandrankala

2. Nagalakshmi

3. Thilagaveni

4. Palaniammal

5. Malathi

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, praying fair and decreetal order dated 15.12.2017 made in I.A.No.218 of 2017 in O.S.No.455 of 2014 on the file of the First Additional Subordinate Court, Coimbatore.

For Petitioners : Mr.K.Venkatasubban
for M/s.Sarvabhauman Associates

For Respondents : Mr.V.Harishankar
for M/s.N.V.Prakash

ORDER

This matter is taken up for hearing through Video-Conferencing.

The defendants in OS No.455 of 2014 have come up with this Revision challenging the dismissal of the application in IA No.218 of 2017 filed by them seeking a decree on admission under Order 12 Rule 6 of the Code of the Civil Procedure.

2. The suit is one for partition and other reliefs. The same is being resisted by the defendants contending that there was an Varthamanam Agreement dated 04.04.2013 between the parties and in the light of the said agreement, the suit itself was not maintainable. The suit was taken up for trial and P.W.1 was examined. Claiming that P.W.1 has admitted the Varthamanam agreement dated 04.04.2013 and he has also expressed his

willingness to act as per the said agreement, this application came to be filed seeking a decree on admission.

3. The application was resisted by the plaintiffs/respondents contending that the so called admission is not an unqualified admission. Though P.W.1 has admitted the existence of the Varthamanam Agreement, he has also said that the defendants have not acted as per the Varthamanam agreement, which necessitated the filing of the suit. One of the main contentions was that the defendants have not complied with the time line stipulated under the agreement.

4. The Trial Court accepted the claim of the plaintiffs/respondents and dismissed the application.

5. I have heard Mr.K.Venkatasubban, learned counsel appearing for M/s.Sarvabhauman Associates for the petitioners and Mr.V.Harishankar, learned counsel appearing for M/s.N.V.Prakash, for the respondents 1 to 3.

6. Mr.K.Venkatasubban, learned counsel appearing for the petitioners would vehemently contend that once P.W.1 has expressed his willingness to abide by the terms of the Varthamanam Agreement, the Trial Court was not right in dismissing the application.

7. Contending contra Mr.V.Harishankar, learned counsel appearing for the respondents would submit that in order to invoke the provisions of Order 12 Rule 6, it must be shown that there was an unequivocal admission of the claim of the plaintiffs by the other side. Pointing out the reasons assigned by the Trial Court, Mr.V.Harishankar, would submit that the admission is not such an unqualified admission, so as to attract the provisions of Order 12 Rule 6 of the Code of the Civil Procedure.

8. The Trial Court which had the benefit of observing P.W.1 has held that the admission is not unqualified. I do not think, sitting in a Revision under Article 227 of the Constitution of India, I will be justified in taking a different view, more so, when I do not have the benefit of observing P.W.1

in the box.

9. I therefore do not see any illegality or material irregularity in the order of the Trial Court. In view of the above, the Civil Revision Petition is **dismissed** confirming the order of the Trial Court. No costs. Consequently, the connected miscellaneous petition is closed.

04.08.2020

jv

Index: Yes/No

Internet: Yes/No

speaking order/Non speaking order

To

The Ist Additional Subordinate Court,
Coimbatore.

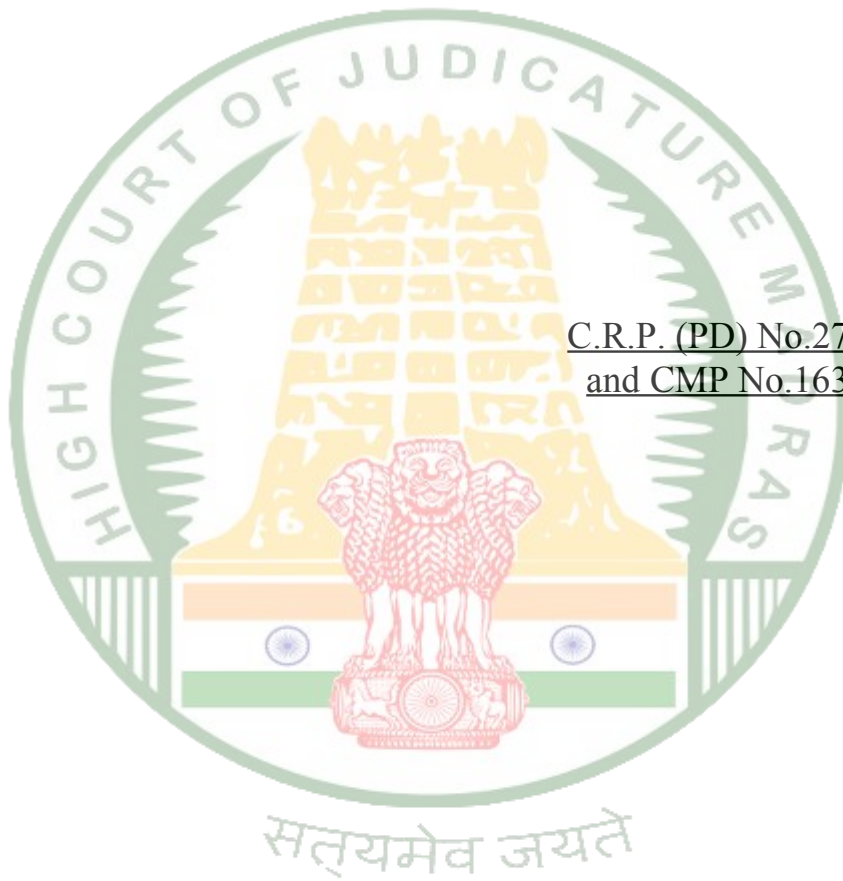
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