

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on :18.12.2020

Pronounced on : 22.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

C.R.P.(P.D).Nos.1650 & 1652 of 2019

C.R.P.(P.D.).No.1650 of 2019

T.Lakshmi

...Petitioner

K.Ganesan

Vs

...Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order and the decreetal order dated 26.02.2019 in I.A.No.370 of 2018, and, thereby, restore the counter claim in O.S.No.501 of 2015, which was dismissed on 26.02.2019 on the file of the Principal District Munsif at Alandur.

For Petitioner : Mr.V.Manisekaran

For Respondent : Mr.K.S.V.Sethuraman

C.R.P.(P.D.).No.1652 of 2019

T.Lakshmi

...Petitioner

Vs

K.Ganesan

...Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to allow the Revision Petition and set aside the order and the decreetal order dated 26.02.2019 in I.A.No.1169 of 2017, and, thereby, restore the counter claim in O.S.No.501 of 2015, which was dismissed on 26.02.2019 on the file of the Principal District Munsif at Alandur.

For Petitioner : Mr.V.Manisekaran

For Respondent : Mr.K.S.V.Sethuraman

COMMON ORDER

These Civil Revision Petitions have been filed to set aside the orders and the decreetal orders dated 26.02.2019 in I.A.Nos.370 of 2018 and 1169 of 2017, and, thereby, restore the counter claim in O.S.No.501 of 2015, which was dismissed on 26.02.2019 on the file of the Principal District Munsif, Alandur.

2.Both the revision petitions are filed against the order passed in I.A.Nos.370 of 2018 and 1169 of 2017, arising from O.S.No.501 of 2015.

Since the two C.R.P.'s are inter connected and arising from the same Original Suit, common order is passed.

3.The suit in O.S.No.501 of 2015 has been filed by the respondent/plaintiff on the file of the learned District Munsif, Alandur, for the relief of permanent injunction with regard to plaint schedule properties.

4.During the pendency of the suit, the petitioner herein/defendant has filed the I.A.No.1169 of 2017 in O.S.No.501 of 2015 for the relief of (i)to take the issue of pecuniary jurisdiction as Preliminary issue; (ii) to order to transfer the suit to the Court of the appropriate jurisdiction; further the respondent herein/plaintiff has filed the I.A.No.370 of 2018 in I.A.No.1169 of 2017 in O.S.No.501 of 2015, for the relief of reject the counter claim statement of the revision petitioner/defendant.

5.After due consideration, the learned trial Judge, while allowing the application in I.A.No.370 of 2018 by order dated 26.02.2019, dismissed the application in I.A.No.1169 of 2017 by order dated 26.02.2019.

6.Aggrieved by the decrees of the learned trial Judge, the revision petitioner/defendant is before this Court with these Civil Revision Petitions.

7.The learned counsel for the revision petitioner submitted that

the respondent/plaintiff-K.Ganesan, filed the suit in O.S.No.501 of 2015 against the revision petitioner/defendant for the relief of permanent injunction with regard to plaint schedule properties. The revision petitioner filed written statement with a counter claim with a prayer to declare the revision petitioner/defendant is the absolute owner of the plaint schedule property with a direction to the respondent/plaintiff to vacate and handover the possession to the defendant. The plaint schedule property is valued Rs.5 lakhs and paid the Court fees of Rs.15,000/-, under Section 25 of the Tamil Nadu Court Fees and Suit Valuation Act, 1955 and amended Act 2017.

8.After the counter claim, the respondent/plaintiff filed the I.A.No.370 of 2018 to reject the counter claim as the pecuniary jurisdiction of the Court is exceeded. This revision petitioner/defendant filed the application in I.A.No.1169 of 2017 to take up the issue of pecuniary jurisdiction as preliminary issue with a prayer to transfer the suit to the Court of appropriate jurisdiction.

9.The trial Court allowed the I.A.No.370 of 2018 and also dismissed the I.A.No.1169 of 2017. The orders of the trial Court is unjust. The trial Court ought to have transferred the suit to some other Court as the

pecuniary jurisdiction has exceeded. He further reiterated other grounds raised in the grounds of revisions and pleaded to allow the revision petitions.

10.The learned counsel for the respondent/plaintiff supported the order of the trial Court, since the Court has no pecuniary jurisdiction, it rightly allowed the petition, to reject the counter claim.

11.Heard both sides and perused the materials available on record.

12.The two revision petitions have been filed against the two orders passed in I.A.Nos.370 of 2018 and 1169 of 2017. The I.A.No.370 of 2018 is concerned with rejection of counter claim. I.A.No.1169 of 2017 is concerned with, to take the issue of pecuniary jurisdiction as preliminary issue and order to transfer the suit to the Court, which is having appropriate jurisdiction.

13.The fact of the case is that the respondent filed the suit against the defendant (revision petitioner), for permanent injunction with regard to plaint schedule properties. The defendant/revision petitioner filed written statement with counter claim and claimed the title over the plaint schedule property and prayed to declare the title over the suit property and also with a

prayer for delivery of possession from the plaintiff. The petitioner valued the suit property as Rs.5 lakhs and affixed required Court fees as per the Tamil Nadu Court Fees and suit valuation Act.

14. Under these circumstances, since the valuation of the suit property is exceeding the pecuniary jurisdiction of the Munsif Court, the plaintiff filed the petition in I.A.No.370 of 2018 in O.S.No.501 of 2015 to reject the counter claim. The defendant filed I.A.No.1169 of 2017 in O.S.No.501 of 2015 for deciding the pecuniary jurisdiction as preliminary issue and to transfer the suit to the competent jurisdiction of the Court.

15. The trial Court considering the submission of the learned counsels on either side allowed the I.A.No.370 of 2018, by rejecting the counter claim and dismissed the I.A.No.1169 of 2017 totally. The suit is for permanent injunction, where the counter claim filed by the revision petitioner/defendant exceeded the pecuniary jurisdiction of the Court, the exclusion of counter claim is proper. Admittedly, the defendant in her counter claim valued the property as Rs.5 lakhs, which exceeds the pecuniary jurisdiction of the trial Court. Where the counter claim filed by the defendant exceeded pecuniary limits of jurisdiction of the Court, it

cannot be allowed and the trial Court has rightly not allowed the counter claim but failed to order return of written statement. The prayer for transferring the suit is also not maintainable, because the defendant had not file any separate suit. If separate suit has been filed, it can be transferred to competent Court when the Court finds it, when it has no pecuniary jurisdiction. While filing counter claim along with written statement, it cannot be transferred to competent Court, only written statement alone has to be returned. Therefore, I find no merit in the revision petitions. For the above mentioned reasons, both the Civil Revision Petitions are dismissed and the Principal District Munsif, Alandur, is directed to return the written statement along with counter claim and inform the revision petitioner/defendant to file the written statement with regard to the case alone.

16.In the result the Civil Revision Petitions are dismissed. No costs.

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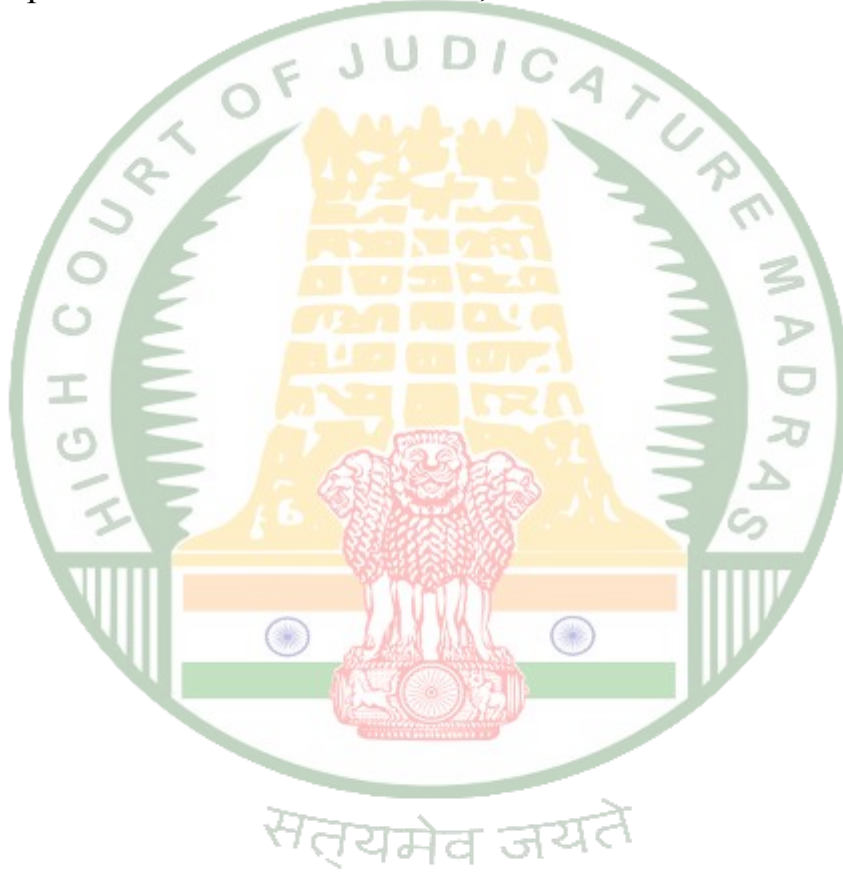
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Internet: Yes/No

Speaking Order: Yes/No

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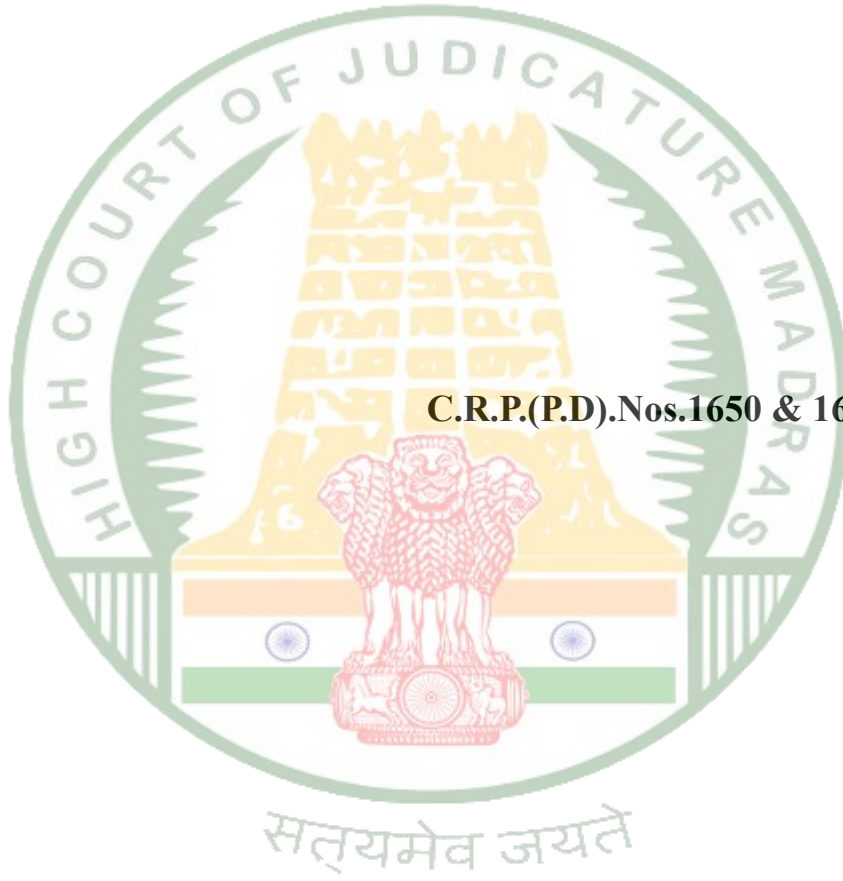
The Principal District Munsif at Alandur, Chennai.



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V.SIVAGNANAM.J,

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