

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 12.08.2021

CORAM

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

CRP (PD).No.1611 of 2018

R.Srinivasan

...Petitioner

Vs

M/s.Southern Petrochemical Industries Corporation Ltd.,
Principal Office: "SPIC HOUSE",
88, Mount Road,
Guindy, Chennai 600 032.
(Rep. by its Secretary)

...Respondent

Prayer:- Civil Revision Petition has been filed under Article 227 of the Constitution of India, praying to strike off the Interlocutory Application I.A.No.14295 of 2016 (petition for Attachment before Judgment) filed by the plaintiff/respondent's side in O.S.No.6143 of 1996 before the learned XV Assistant City Civil Court, Chennai now on the file of the learned IV Assistant City Civil Court (Transferee Court) with exemplary costs, compensation and damages in favour of the revision petitioner/defendant herein.

For Petitioner : Party-in-person

For Respondent : Mr.Swamynathan

ORDER

This revision petition has been filed under Article 227 of the Constitution of India to strike off the interim application I.A.No.14295 of 2016 in O.S.No.6143 of 1996 on the file of the IV Assistant City Civil Court, Chennai.

2. The petitioner is the defendant in the suit and the suit was filed for recovery of money based on mortgage. Though the suit was instituted before the original side of the High Court in the year 1989, it was transferred to City Civil Court, which was renumbered in the year 1996.

3. From perusal of records, it is seen that the trial in the suit commenced as early as in the year 2004. Subsequently, applications after applications have been filed either by the plaintiff or by the defendant, hence, the suit is not yet disposed of. It appears that in the year 2016, the plaintiff chose to file an application under Order XXXVIII Rule 5 CPC seeking attachment before judgment of the petitioner's property.

4. Mr.R.Srinivasan, appearing party in person would state that the suit was filed for recovery of money based on mortgage and hence, there is absolutely no necessity to file this application for attachment before judgment. According to the petitioner, the deponent has no authority to sign the affidavit. The petitioner further submits that the suit is being unnecessarily dragged on by the plaintiff and he is now ready for disposal of the main suit itself.

5. Per contra, the learned counsel appearing for the respondent would submit that even though in the earlier CRP.No.913 of 2017, this Court directed the parties to cooperate for the earlier disposal of the suit, due to non-cooperation of the petitioner/defendant, there is no progress in the suit. It is next contended that the suit was originally pending before XVI Assistant City Civil Court, Chennai and at the instance of the petitioner, it was transferred to IV Assistant City Civil Court, Chennai. Now, the respondent/plaintiff is ready to proceed with the case and he has no intention to prolong the litigation.

6. In reply, the petitioner appearing party-in-person would state that the property now sought to be attached is the residential house of the

petitioner and he has no intention to sell the said property and he has not taken any steps to alienate the property. The statement of the petitioner/defendant is recorded.

7. In the light of the above facts, the Civil Revision Petition is allowed and the application in I.A.No.14295 of 2016 is struck off.

8. In addition, the following directions are issued:

(i) The learned IV Assistant City Civil Judge, Chennai is hereby directed to dispose of the suit in O.S.No.6143 of 1996 as expeditiously as possible, preferably within a period of six months from the date of receipt of a copy of this order.

(ii) All the interim applications pending in the above suit shall be closed and interim applications if any filed in future in the suit shall be summarily rejected.

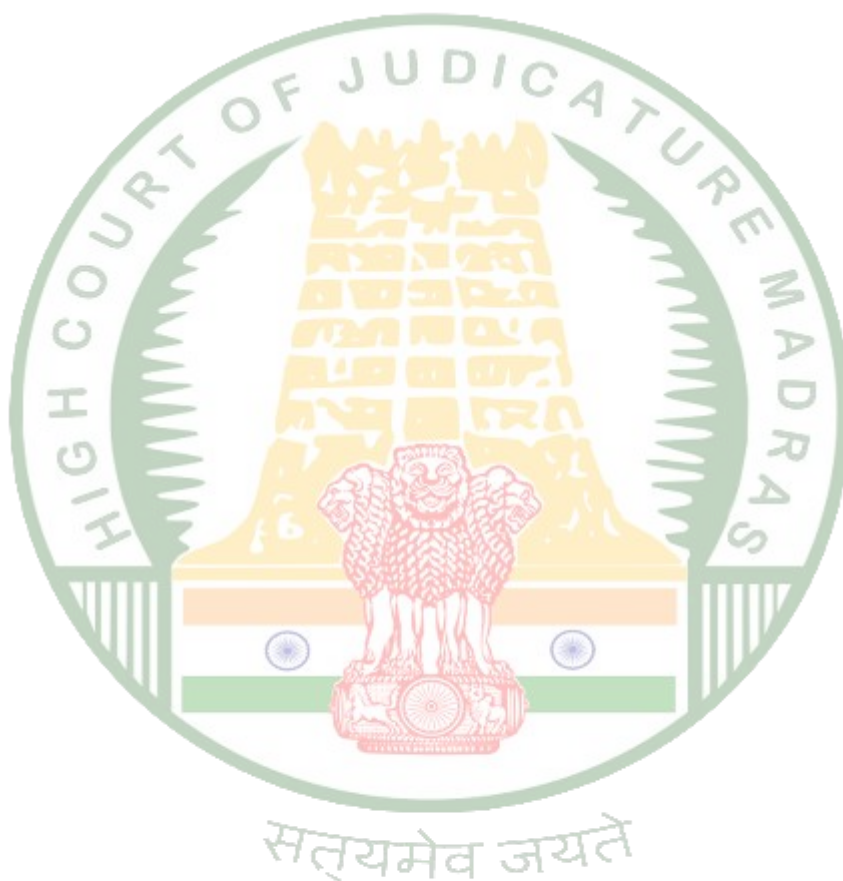
(iii) The parties are hereby directed to cooperate for disposal of the suit in the time frame. There is no order as to costs.

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12.08.2021

Index : Yes/No
Internet : Yes/No
Speaking Order
pvs

To
The IV Assistant City Civil Court,
Chennai

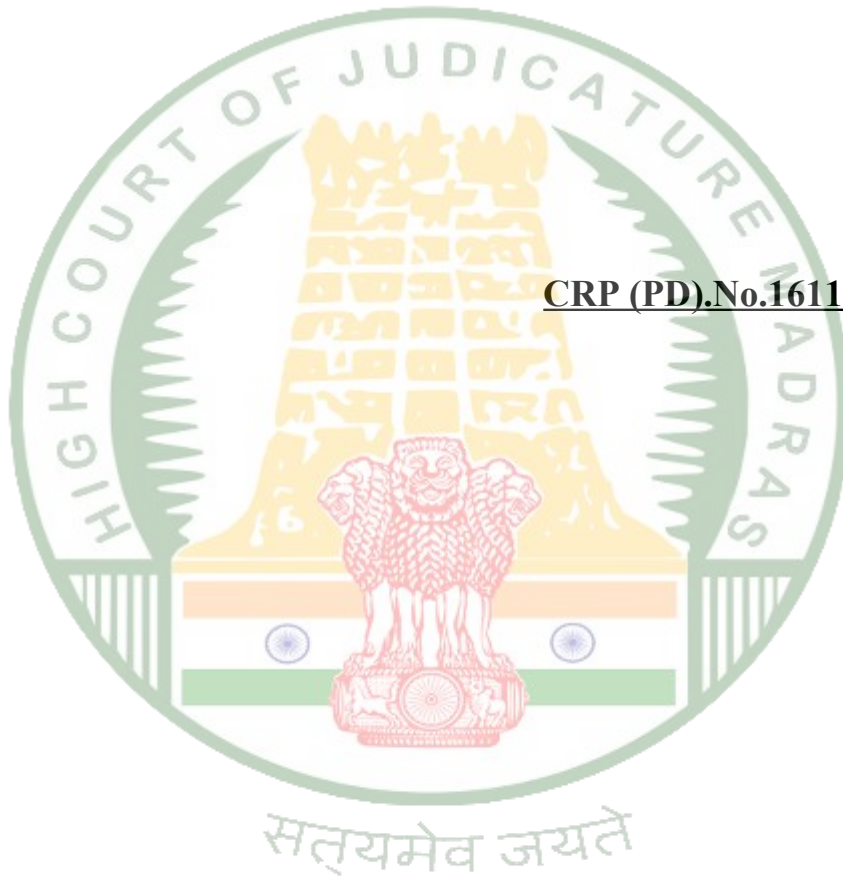


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