

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 19.4.2021.

CORAM

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

C.R.P. (NPD) No.2931 of 2019

and

C.M.P.Nos.18973 and 26703 of 2019

1. M.O.Yasin
2. A.Sulaiha
3. Y.Shamim Sadat

Petitioners

vs.

M.O.Ibrahim (Died)

1. E.Foroz Khan
2. M.K.Noor Mohammed
3. S.Samsunnisa

4. The Sub Registrar,
Thiruporur,
Chengalpattu District.

5. E.A.Noorjahan
6. E.Sathik Roshan
7. E.Abitha Yaseem
8. E.Alakbar Ali
9. Mr.Rashid Khan
10. Mr.S.Raju

Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the Order and Decretal order dated 9.7.2019 passed in I.A.No.159 of 2016 in A.S.No.15 of 2012 on the file of the Additional District Court, Kancheepuram District at Chengalpet.

For Petitioners : Mr.V.Chandraprabu

For R9 : Mr.AR.L.Sundaresan, Senior Counsel for
M/s.AL.Ganthimathi

ORDER

The petitioners in I.A.No.159 of 2016 which had been filed in A.S.No.15 of 2012 are the revision petitioners herein.

2. The petitioners in the said I.A. were also the plaintiffs in O.S.No.232 of 1998 which suit was filed on the file of the learned Additional Sub Court, Chingleput.

3. The said suit in O.S.No.232 of 1998 had been filed seeking a declaration that a sale deed dated 13.9.1993 executed by the first plaintiff and the first defendant in favour of the third defendant and also another sale deed dated 16.9.1993 again executed by the first plaintiff and by the first defendant in favour of the fourth defendant were both sham and nominal and have to be set aside. A consequential prayer was also made in the suit.

4. The parties went to trial. Judgment was passed after considering the evidence adduced on 23.4.2012 decreeing the suit.

5. As against the said judgment and decree, defendants 3 and 4 filed A.S.No.15 of 2012 which is now pending on the file of the Principal District Judge, Chinglepet.

6. The plaintiffs in the said First Appeal had necessity to file

I.A.No.159 of 2011 since they were aggrieved by the fact that the 10th respondent in the Appeal, who had, by his own Application was made a party/respondent in the Appeal, had interfered by receiving the compensation amount towards a portion of the suit property which had been acquired by the Government. The plaintiff's grievance is that having had the suit decreed in their favour, which consequently gave them right of entitlement to seek the compensation amount, but, however, the 10th respondent in the Appeal appears to have received the said compensation. Therefore, they filed the Application calling upon the 10th respondent to deposit the said amount, which he had received, into court. The learned Judge had passed an order on 9.7.2019. This order is now under challenge in the present revision petition.

7. I am quite cautious not to venture to make observations on merits of either one of the contesting parties. The learned Judge had dismissed the said Application but in the course of the order, had expressed more than once that it would have been very convenient had he been permitted to hear both the Interlocutory Application and the First Appeal and pass orders in both at the same time.

8. The learned Judge was of the opinion that the facts in both

the Interlocutory Application and the First Appeal can be addressed by the learned counsels for the parties together and be heard by him together. In fact, he wanted to pass a common order in the Interlocutory Application and the First Appeal.

9. Let me not go deep into the factual aspects of the case since the facts are strongly disputed by either side. In the interest of justice, the order passed by the court below is set aside, without examining such order on merits but, only to the limited purpose of reviving the said I.A.No.159 of 2016 and requesting the learned Judge to rehear the arguments of both sides and dispose of both Interlocutory Application and the First Appeal.

10. The learned counsel for the parties may advance their arguments before the court below in both Interlocutory Application and the First Appeal and I am confident that the learned Additional District Judge, Chengalpattu would deliver an order in both Interlocutory Application and the First Appeal after re-examining the entire issue.

11. This order has been passed in the presence of Mr.V.Chandrababhu, learned counsel for the petitioner and Mr.AR.L.Sundaresan, learned Senior Counsel for the 9th respondent

and I am confident that both of them will take the First Appeal forward.

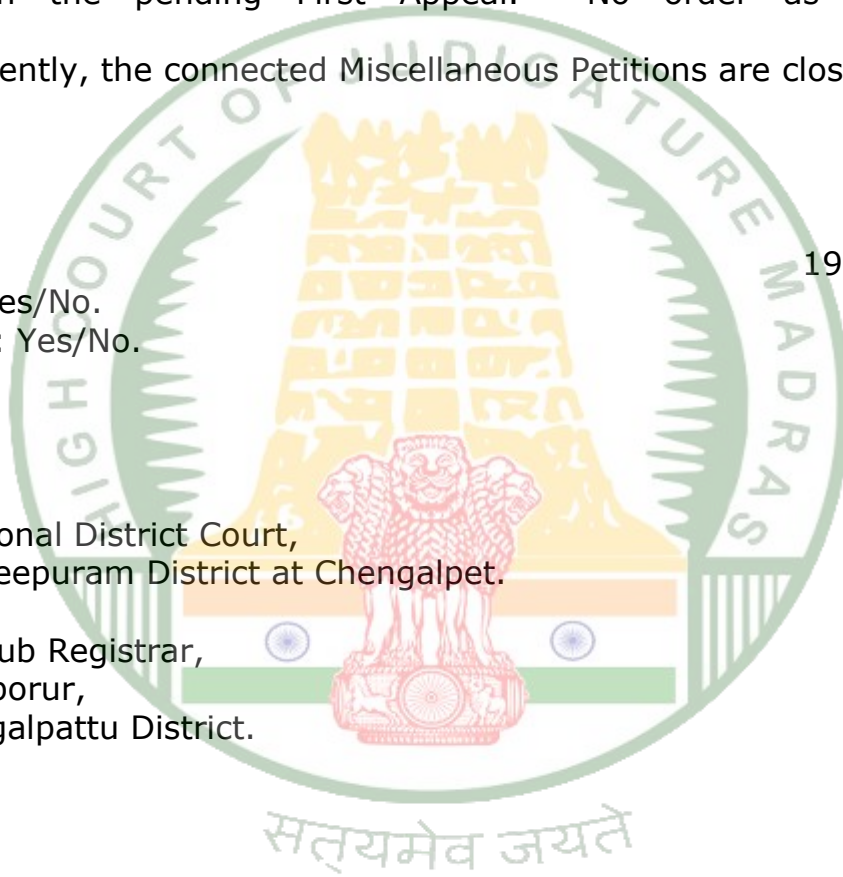
12. With the above observation, the Civil Revision Petition is disposed of reviving the said Interlocutory Application to be heard alongwith the pending First Appeal. No order as to costs. Consequently, the connected Miscellaneous Petitions are closed.

19.4.2021.

Index: Yes/No.
Internet: Yes/No.
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To

1. Additional District Court,
Kancheepuram District at Chengalpet.
2. The Sub Registrar,
Thiruporur,
Chengalpattu District.



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C.V.KARTHIKEYAN, J.

Ssk.



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