

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.03.2021

CORAM :

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.R.P.(PD).No.3868 of 2018

1.K.Panneerselvam
2.P.Manivanna Raj
3.P.Rajarajan

... Petitioners

Versus

B.S.Chandrasekar

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 06.01.2018 passed in I.A.No.253 of 2017 in O.S.No.100 of 2012 on the file of the learned III-Additional District Judge, Salem.

For Petitioners : Mr.V.V.Sai Ram

For Respondent : No Appearance

ORDER

This Civil Revision Petition has been filed challenging the order dated 06.01.2018 passed in I.A.No.253 of 2017 in O.S.No.100 of 2012 on the file of the learned III-Additional District Judge, Salem.

2.The learned counsel for the petitioners submitted that the Court below passed a non-speaking order by simply allowing the application on the following terms:-

“இறுதியாக இம்மனு அனுமதிக்கப்பட்டு,
1ம் பிரதிவாதியைப் பொறுத்து பிராது
நிராகரிக்கப்படுகிறது.”

3.By referring to the above said order, the learned counsel for the petitioners submitted that the respondent/first defendant filed the application in I.A.No.253 of 2017, to reject the plaint, under Order VII Rule 11 (a) & (d) and Section 151 of CPC. The respondent / first defendant had also filed a written statement and at this juncture, the petitioners herein filed a detailed counter by narrating the fact as to how the petition is not maintainable. Without considering all these facts, the Court below passed a non-speaking order, by which allowed the petition, without any application of mind. Therefore, he prayed to set aside the order of the Court below and remand the matter for re-consideration.

4.Though notice was ordered to the respondent, even after

service of the notice and the name was also printed in the cause list, when

the matter is called, none appeared for the respondent.

5.Heard the learned counsel for the petitioner and perused the materials available on record.

6.On a perusal of the order, it would show that a non-speaking order is passed without application of mind. Time and again this Court deprecates passing of any such non-speaking order. In the present petition under Order VII Rule 11 (a) (d) r/w 151 of CPC., to reject the plaint, when the Court below passed an order to reject the plaint it is duty bound to the Court, to give some reason for rejection of the plaint. But in the present case, no such reason had been provided while passing the order as mentioned above.

7.Therefore, this impugned order of the Court below is set aside and the matter is remanded back to the Court below for re-consideration. The Court below is directed to give opportunities to both parties to putforth their case and thereafter, they could decide the matter on merits.

KRISHNAN RAMASAMY,J.

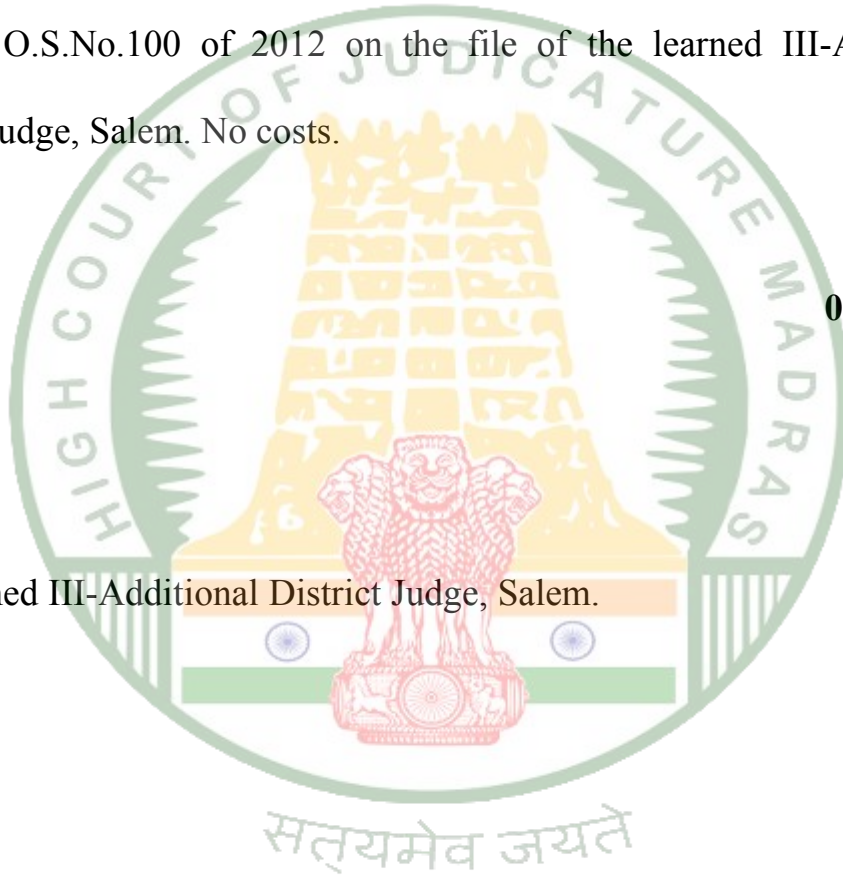
klt

8.In the result, the Civil Revision Petition is allowed by setting aside the fair and decretal order dated 06.01.2018 passed in I.A.No.253 of 2017 in O.S.No.100 of 2012 on the file of the learned III-Additional District Judge, Salem. No costs.

01.03.2021

klt

To
The learned III-Additional District Judge, Salem.



C.R.P (PD).No.3868 of 2018

WEB COPY