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C.R.P (PD) No.1553 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2022

CORAM: JUSTICE N.SESHASAYEE

C.R.P (PD) No.1553 of 2022
and C.M.P. No.7848 of 2022

M.P.Sasikumar

... Petitioner

Vs.

Lakshmi

... Respondent

PRAYER: The Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order passed by the learned XXIV Assistant City Civil Judge in charge of XXII Assistant City Civil court in I.A. No.2 of 2020 wrongly stated as I.A. No.2 of 2021 in the order in O.S. No.1518 of 2020 dated 11.03.2022.

For Petitioner

:

Mr.T.Surendran



ORDER

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The revision petitioner herein has laid O.S. No.1518 of 2020 on the file of XXIV Assistant City Civil Court in which, he took out an application in I.A. No.2 of 2020 for an order of injunction under Order XXXIX Rules 1 and 2 of CPC. The trial court rejected the same giving its reason for rejecting it but, in the parting line to the order, it recorded that I.A. No.2 of 2020 was not maintainable, instead of denoting that it was dismissed.

2. The revision petitioner therefore, is before this court challenging the said order.

3. This is an apparent faux pas on the part of the trial court but then, that need not detain the court further in the matter. The approach of the learned trial judge and the line of reasoning indicate that the learned trial judge found reasons not to grant an order of interim injunction. Therefore, the mere statement of the trial court that the application for injunction is not maintainable *ipso facto* cannot upset the legitimacy of the order.



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4. The learned counsel for the revision petitioner submitted that the order in the present basis may not help the revision petitioner to prefer an appeal under Order XLIII Rule 1 CPC, since the order does not say that I.A. No.2 of 2020 is dismissed.

5. This is only a mistake and this court directs the appellate court to construe the parting words of the order in I.A. No.2 of 2020 as one of dismissal. The revision petitioner can now prefer an appeal before the concerned appellate court challenging the order passed in I.A. No.2 of 2020, if he is so desirous.

6. With the above direction, the revision petition is disposed of. However, there will be no order as to costs. Consequently, the connected civil miscellaneous petition is closed.

29.04.2022

Asr

To
The XXIV Assistant City Civil Judge, Chennai



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N.SESHASAYEE, J.,

Asr

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