



CRP No.1095 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.07.2023

CORAM:

THE HONOURABLE Mr. JUSTICE LAKSHMI NARAYANAN

CRP No.1095 of 2016
and CMP No.6042 of 2016

1.Nivedhitha Devi
2. R.Saradhamani Devi
3. Paramasivam

...Petitioners

Vs

1. O.S.Thangamuthu
2. Sellappa Gounder
3. V.K.Subramani
4. Chennimalai Gounder
5. Saraswathi

...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the order dated 31.08.2015 made in I.A.No.658 of 2014 in O.S.No.161 of 2012 on the file of I Additional District Judge, Erode.

For Petitioners : Mr.L.Mouli

For Respondents : No appearance
for R.1, R.2, R.3 and R.5

: R.4 died

ORDER



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The respondents 1 and 2, who are the contesting respondents have been served on 10.06.2016. There is no appearance on their behalf. The respondents 3 to 5 are not contesting respondents.

2. The respondents 1 and 2 have filed an application in I.A.No.658 of 2014 seeking for a stay of the trial of the suit in O.S.No.161 of 2012 till the disposal of O.S.No.194 of 2009.

3. A detailed counter has been filed by the revision petitioners. Despite the fact that counter is on record, the learned Judge has recorded as if the fourth respondent has not filed counter. The gist of the order is as follows:

“ Counter of R4 not filed. R4 not appears. No representation. Set exparte. Heard. Petition allowed.”

4. It is an unreasoned order and does not comply with the requirements of Order 20 of Civil Procedure Code. An unreasoned order is illegal vide ***R.Stella vs V.Antony Francis reported in (2019) 5 LW 161***. The learned Judge ought to have taken into consideration the counter filed by the respondents 1 and 3 prior to passing of the order.



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5. Since an unreasoned order has been passed, the order passed by the trial court in I.A.No.658 of 2014 in OS.No.161 of 2012 is hereby set aside and the matter is remitted back to the learned I Additional District Judge, Erode.

6. The learned I Additional District Judge, Erode shall take into consideration of the counter filed by the revision petitioners and thereafter, pass orders in accordance with law. The said exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order.

With the above direction, the civil revision petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

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Index: Yes/No
Speaking order/Non-speaking order
sr



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V.LAKSHMINARAYANAN,J.,

SR

To

1. The I Additional District Judge,
Erode.

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