



CRP No.2444 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2023

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CRP.No.2444 of 2017
and CMP.No.11546 of 2017

Santhalingam

..Petitioner

Vs.

1.K.M.Abaramurthy
2.Krishnasamy @ Kittusamy Gounder
3.R.Krishnamurthy
4.T.Ravi
5.The Sub-Registrar,
Sub-Registrar Office,
Avinashi.

..Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, to allow the CRP by setting aside the fair and decreetal order dated 17.02.2017 passed in I.A.No.694 of 2016 in O.S.No.197 of 2011 on the file of the District Munsif Court, Avinashi.

For Petitioner : Mr.Sriram
for M/S.K.Govi Ganesan

For Respondents

For R1 : Mr.S.Arjun
For R5 : Mr.C.Sathish
Government Advocate

For R2 to 4 : No appearance



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ORDER

The civil revision petition has been filed as against the fair and decreetal order dated 17.02.2017 passed in I.A.No.694 of 2016 in O.S.No.197 of 2011 on the file of the District Munsif Court, Avinashi, thereby allowing the application filed under Order 1 Rule 10 of CPC to grant an add the proposed respondents/defendants 3, 4 and 5.

2. It is seen from the records that the petitioner is the second defendant in the suit filed by the first respondent herein for permanent injunction in respect of the suit property. Pending the suit, the first respondent filed an application to implead the respondents 3 to 5 herein as defendants in the suit. In the said application, the petitioner herein filed a detailed counter affidavit. However, the Court below, without even considering the counter filed by the petitioner and the arguments, simply allowed the application as no counter endorsement made. It is a non-speaking order and it cannot be sustained.

3. In view of the above, the order dated 17.02.2017 passed in I.A.No.694 of 2016 in O.S.No.197 of 2011 on the file of the District Munsif Court, Avinashi, is hereby set aside and the matter is remitted back for fresh consideration. The Trial Court is directed to dispose of the application, after



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considering the counter affidavit filed by the petitioner herein on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order.

4. In the result, the civil revision petition stands allowed. No costs.
Consequently, connected miscellaneous petition is closed.

03.01.2023

Speaking/Non-speaking order
Index : Yes/No
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G.K.ILANTHIRAIYAN.J.

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To

The District Munsif Court, Avinashi.

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