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C.R.P.(NPD).Nos.4552 and 4349 of 2017

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.03.2023

CORAM : JUSTICE N.SESHASAYEE

C.R.P.(NPD).Nos.4552 and 4349 of 2017
and C.M.P.Nos.20463 and 21482 of 2017

1.Jothi

2.Kumarasamy

... Petitioners in both C.R.P's

Vs.

1.Mahendra Reddiar

2.Rajendran

3.Kuppusamy

... Respondents in both C.R.P's

Prayer in C.R.P.No.4552 of 2017: Petition filed under Article 227 of the Constitution of India, seeking to set aside the fair and decretal order dated 04.03.2017 passed in I.A.No.66 of 2015 in A.S.No.20 of 2012 on the file of the Subordinate Court, Madurantagam.

Prayer in C.R.P.No.4349 of 2017: Petition filed under Article 227 of the Constitution of India, seeking to set aside the fair and decretal order dated 04.03.2017 passed in I.A.No.105 of 2015 in A.S.No.20 of 2012 on the file of the Subordinate Court, Madurantagam.



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C.R.P.(NPD).Nos.4552 and 4349 of 2017

For Petitioners : Mr.K.Govi Ganesan
in both C.R.P's

For Respondents : Mr.K.Azhagu Raman
in both C.R.P's

ORDER

These revisions are filed against the orders of the learned first appellate Court allowing separate applications taken out by the respondents herein (appellants before the first appellate Court) in I.A.Nos.66 and 105 of 2015, both under Order 41 Rule 27 C.P.C. They were allowed, and hence these Civil Revision Petitions.

2.The suit was laid for declaration of title and for some ancillary reliefs of injunction and the same was decreed. Challenging which, the defendants / respondents herein had preferred A.S.No.20 of 2012. It is in this appeal, the respondents herein had taken out the aforesaid two applications for receiving certain additional evidence before the First Appellate Court and they were allowed.

3.Heard both sides. The law is settled too firmly for anyone to doubt or



C.R.P.(NPD).Nos.4552 and 4349 of 2017

debate as to how to deal with an application under Order 41 Rule 27 C.P.C.

In every case, any of the parties to the appeal resort to Order 41 Rule 27 C.P.C., it is essential for the appellate Court to take these applications and hear them only along with the appeal for the evidence thus produced since the Court is under an obligation to ascertain the need for those documents for adjudicating the appeal in the context of other evidence already made available by the parties before the trial Court. This principle is breached by the First Appellate Court. Thereby, this Court necessarily needs to intervene with these revisions.

4.These revision petitions are allowed accordingly. The orders of the first appellate Court passed in I.A.Nos.66 and 105 of 2015 in A.S.No.20 of 2012 is set aside and the matter is remanded back to the first appellate Court with a direction to it to hear these applications along with the appeal.

5.The first appellate Court is further directed to dispose of the appeal within a period of 45 days from today. If the case is posted to any longer date by the first appellate Court, it is required to be advanced to a nearer date.



C.R.P.(NPD).Nos.4552 and 4349 of 2017

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6.It is apparent that the first appellate Court has breached the rudimentary principles involved in considering any application filed under Order 41 Rule 27 CPC., Its failure to conform to the settled principles has led to unnecessary litigation which is avoidable. And, this has also halted the progress of the appeal before it, and at the time when judiciary faces ire of the public for the alleged delay in justice dispensation. It is necessary that all those who are associated with the legal system must endeavour to share the responsibility collectively for bringing down the pendency by trekking along the safer lines of judicial propriety by conforming to the settled principles of law.

7.In view of the above, these Civil Revision Petitions stand allowed. No Costs. Consequently, the connected miscellaneous petitions are closed.

20.03.2023

Anu
Index : yes / no
Internet : yes / no
Speaking / non speaking

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C.R.P.(NPD).Nos.4552 and 4349 of 2017

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To:

1. The Subordinate Court,
Madurantagam.
2. The Section Officer
VR Section, High Court, Madras.



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C.R.P.(NPD).Nos.4552 and 4349 of 2017

N.SESHASAYEE.J.,

Anu

C.R.P.(NPD).Nos.4552 and 4349 of 2017
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