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A.S.No.506 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.06.2024

CORAM

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

A.S.No.506 of 2015

Hema Ramanathan
W/o.Ramanathan
Door No.2/199, Drivers Colony
A.Jeittihalli Village & Post
Dharmapuri Taluk & District

... Appellant

Vs.

M.Kalpana
W/o.Mathivanan
Door No.4/989, Sayagosh Campaus
Samy Palace, Periyanaahalli
Palacode Taluk, Dharmapuri District.

... Respondent

Prayer: Appeal filed under Section 96 of Code of Civil Proceedure against the Judgment and Decree dated 30.04.2015 made in O.S.No.2/2011 on the file of the Principal District Judge, Dharmapuri only in respect of awarding of costs.

For Appellant : Mr.S.Namasivayam

For Respondent : Mr.B.Rabu Manohar

JUDGMENT



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The Appeal has been filed against the Judgment and Decree dated 30.04.2015 made in O.S.No.2/2011 on the file of the Principal District Judge, Dharmapuri only in respect of awarding of costs.

2.The Respondent/Plaintiff filed a Suit in O.S.No.2 of 2011 before the Principal Sub Court, Dharmapuri for specific performance of the Suit sale agreement, subsequently it was transferred to the learned Principal District Judge, Dharmapuri.

3.During trial on the side of the Plaintiff PW1 & PW2 were examined and Ex.A1 to Ex.A6 were marked and on the side of the Defendant DW1 was examined and Ex.B1 to Ex.B4 were marked.

4.After trial, the trial Court decreed the Suit. In the discussion in para Nos.11, 12, 13 & 14 of the order made in O.S.No.2/2011 on the file of the Principal District Judge, Dharmapuri, dated 30.04.2015, the trial Court come to a conclusion that the Plaintiff is ready and willing to perform his part of contract and only due to the non co-operation of the Defendant/Landlord, the execution of sale deed could not be carried out and accordingly decreed the Suit.



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However, the trial Court also awarded costs to the Appellant/Defendant. The value of suit agreement was Rs.58,69,200/-, Court fee paid was Rs.4,40,191/-.

This Appeal was filed only as against the costs awarded to the tune of Rs.4,55,798/-.

5.Heard the learned counsel for the Appellant and the learned counsel for the Respondent.

6.The learned counsel for the Appellant would contend that the order of award of costs of Rs.4,55,789 is exorbitant. The learned counsel for the Respondent would contend that pursuant to the Decree, they have filed Execution Petition and also obtained sale deed in their favour through Court.

7.In view of the fact that sale deed has already been executed and in the absence of any reason, awarding costs to the tune of Rs.4,55,798/- is justifiable or not is the point to be determined in this Appeal.

8.After perusing the reason for granting the specific relief of Ex.A1/Suit sale agreement dated 09.12.2010 and also having noted the fact that sale deed is



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also executed, I find that awarding of costs is totally unnecessary and without any reasons. Accordingly, costs portion alone is set aside in the Decree and Judgment dated 30.04.2015 made in O.S.No.2 of 2011 on the file of the Principal District Judge, Dharmapuri.

9. Accordingly, the Appeal Suit partly allowed to the extent indicated above. No costs.

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Index : Yes/No
Neutral citation : Yes/No
Speaking Order/Non-Speaking Order

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To
The Principal District Judge,
Dharmapuri



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RMT.TEEKAA RAMAN.J,

sai

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