



C.R.P(PD)(MD)No.1607 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

C.R.P(PD)(MD)No.1607 of 2024

and

CMP(MD)No.9478 of 2024

V.V.Jeyandra Sankar Raja

... Petitioner/1st Respondent/Plaintiff

VS.

1.V.S.D.Ramkumar

... 1st Respondent/Petitioner/5th Defendant

2.V.S.Dhamothara Raja (Died)

3.D.Kalavathi

4.The Commissioner,
Rajapalayam Municipality,
Rajapalayam, Virudhunagar District.

5.V.S.D.Sankara Narayana Raja

... Respondents 2 to 5/Respondents 2 to 5/Defendants 1 to 4

Prayer:- Civil Revision Petition filed under Article 227 of the Constitution of India, to call for the records pertaining to the Fair and Decretal order passed by the Additional Subordinate Court, Srivilliputtur in I.A.No.11 of 2023 in O.S.No.55 of 2008, dated 12.03.2024 and set aside the same as illegal.

For Petitioner

: Mr.K.P.Krishna Doss



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ORDER

The Civil Revision Petition is directed against the order passed in I.A.No.11 of 2023 in O.S.No.55 of 2008, dated 12.03.2024 by the Additional Subordinate Court, Srivilliputtur.

2.By the said order, the *ex parte* order passed in respect of the fifth defendant was set aside. Aggrieved by the same, the present revision petition is filed.

3.The learned counsel appearing on behalf of the petitioner would submit that the fifth defendant was set *ex parte* as on 03.11.2017. When the suit is now posted for arguments, at that stage the application is filed and the same is allowed by the trial Court. He would submit that the trial Court ought not to have allowed the application and even the findings of the trial Court is in favor of the petitioner/plaintiff.

4.I have considered the said submissions made on behalf of the learned counsel for the petitioner and perused the material records of the case.



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5.This Court takes notice of the findings in paragraph Nos.12 and 13 of the order. As a matter of fact, the findings lean in favor of the petitioner/plaintiff only. However, eventhough the trial Court has decided to impose a maximum cost, it has imposed a very meager sum of Rs.5,000/- only. Be that as it may, the contention of the learned counsel for the petitioner is that the petitioner has got a very good case and even the first defendant has clandestinely executed the sale deed in the State of Kerala. If that be so, it would be in the best interest of the petitioner/plaintiff to conduct and dispose of the suit as early as possible. As a matter of fact, when the trial Court after considering the fact that the suit is still pending and exercised its discretion, this Court does not find any compelling reason to interfere with the order. But however, the opportunity granted to the fifth defendant, cannot be taken as a license to drag on the matter eternally.

6.In view of the nature of the order passed, the Civil Revision Petition is disposed of without even notice to the respondents and its disposed of on the following terms:



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(i) The respondent/5th defendant shall file a written statement within a period of two weeks from the date of receipt of a copy of this order;

(ii) The petitioner/plaintiff will be entitled to file reply, if any, within a period of one week therefrom;

(iii) The Trial Court shall frame additional issues if any necessary and give an opportunity for the plaintiff to lead additional evidence, if any, and if the plaintiff feels it necessary;

(iv) Thereafter, the 5th defendant shall be given an opportunity to let in evidence on his part;

(v) Since the suit is of the year 2008, the same shall be taken up on day-to-day basis and in any event, be disposed of as expeditiously as possible not later than three months from the date of filing the written statement.

No costs. Consequently, connected miscellaneous petition is closed.

23.07.2024

NCC : Yes / No
sjj



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The Additional Subordinate Court, Srivilliputtur.



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D.BHARATHA CHAKRAVARTHY, J.

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