

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.10.2015

CORAM

THE HONOURABLE MR.**JUSTICE D.HARIPARANTHAMAN**

CRP (NPD) No.3173 of 2015

Vijaya

... Petitioner

vs.

1.Subbulakshmi
2.Selvi

... Respondents

Civil Revision Petition has been filed against the order dated 12.01.2015 made in I.A.No.474/2014 in O.S.No.177/2009 on the file of the learned District Munsif, Sathyamangalam.

For petitioner : Mr.A.K.Kumaraswamy

For Respondents : Mr.M.Guruprasad

ORDER

The revision petitioner is the defendant in O.S.No.177/2009 on the file of the District Munsif Court, Sathyamangalam. The respondents herein are the plaintiffs therein. The respondents/ plaintiffs are none else than the mother and sister of the defendant.

2.The aforesaid suit was filed for declaration of "A" schedule property and for permanent injunction restraining the defendant from interfering with the plaintiffs' peaceful possession and enjoyment of "A" schedule property.

3.While so, the revision petitioner / defendant was set exparte and exparte decree was passed on 19.10.2010 in OS.No.177 of 2009.

4.Hence, the revision petitioner filed IA.No.474 of 2014 in OS.No.177 of 2009 to condone the delay of 1193 days in filing the application to set aside the exparte decree on 19.10.2010. The trial court dismissed the aforesaid application on 12.01.2015. Therefore, the revision petitioner filed the present Civil Revision Petition.

5.Heard both sides.

6.As stated above, the respondents / plaintiffs are the mother and sister of the respondent / defendant. The suit in O.S.No.177/2009 was filed with respect to property dispute.

7.Taking into account the close relationship between the parties, this Court ordered notice of motion on 14.08.2015. Notice was served on the respondents and the respondents are represented by a counsel.

8.After hearing both sides and considering the close relationship between the parties, I am inclined to set aside the order dated 12.01.2015 made in IA.No.474 of 2014 in OS.No.177/2009. Accordingly, the said order is set aside. Consequently, the delay in

filing the application to set aside the exparte order is condoned and IA No.474 of 2014 in OS No.177 of 2009 is ordered, on condition that the revision petitioner / defendant shall pay a cost of Rs.10,000/- to the respondents / plaintiffs within four weeks from the date of receipt of a copy of this order.

9.On complying with the conditional order, the trial court is directed to take up the application filed to set aside the exparte decree and to dispose of the same in the manner known to law. A further direction is issued to dispose of the suit, after setting aside the exparte decree, within a period of nine months.

10.The Civil Revision Petition is disposed of with the above terms. No costs.

28.10.2015

Index:Yes/No
rk

To

1.The District Munsif Court, Sathyamangalam.

D.HARIPARANTHAMAN, J.

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