



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.01.2015

CORAM:

WEB COPY

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

C.R.P. (PD) (MD) Nos.2509 & 2510 of 2014
and
M.P. (MD) No.1 of 2014

Meenal

: Petitioner in both C.R.Ps

Vs.

1.Samy Ayya
2.Karunanidhi
3.Bharathidasan
4.Indhu Rani
5.Bose Thevar
6.Muthamizh Selvi
7.Chithra Kani
C.R.Ps

: Respondents in both

Common Prayer: Civil Revision Petition are filed under Article 227 of the Constitution of India, against the fair and executable order dated 16.10.2014 passed in I.A.No.352 and 351 of 2014 in O.S.No.47 of 2012 on the file of the District Munsif cum Judicial Magistrate, Kamuthi.

For Petitioner

: Mr.T.R.Jeyapalam

For R-1 to R-3

: No Appearance

For R-4 to R-7

: Mr.M.V.Venkataseshan

COMMON ORDER

These revisions are filed by the sixth defendant in the suit to set aside the ex-parte decree and re-open the suit for filing written statement.

2. The suit is filed for declaration and injunction. The sixth defendant, who is the petitioner herein was impleaded in the suit as per order in I.A.No.270 of 2014, dated 27.08.2014. However, without giving an opportunity to the petitioner herein to file a written statement, she was set ex-parte on 06.09.2014. Though on the said date, the petitioner was aware of the suit being posted for enquiry, she did not have time to engage a lawyer and file her written statement as she was ill on that date. Therefore, the petitioner had filed two interim applications to set



aside the ex-parte decree against her and re-open the case. The applications were disposed of by a common order by the trial Judge stating that on 12.09.2014, the period granted statutorily to file a written statement for a defendant was over and the petitioner having not filed the same, cannot maintain the applications and hence, dismissed the applications. The order of the trial Judge is patently erroneous as the petitioner was impleaded as sixth defendant in the suit only on 27.08.2014 and the plaint was amended in the first week of September, 2014. The petitioner could have possibly filed the written statement from four weeks from the said date. However, she was set ex-parte on 06.09.2014 without even giving her the statutory time for filing the written statement.

3. Therefore, the order of the trial Judge is set aside and the sixth defendant namely the petitioner herein, is directed to file written statement, within a period of four weeks from the date of receipt of a copy of this order. The trial Judge is directed to dispose of the suit on or before 30 April, 2015 and report compliance to this Court.

4. The Civil Revision Petitions are allowed to the extent indicated above. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar(C.S)

To
The District Munsif cum Judicial Magistrate,
Kamuthi.

+1cc to Mr. M.V.Venkatasehan, Advocate in SR.No. 3666

+1cc to Mr. T.R.Jeyapalan, Advocate in SR.No. 3645

TS/11.02.2015/2P-4C

Order made in
C.R.P. (PD) (MD) Nos.2509 & 2510 of 2014

Dated: 27.01.2015