



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 13.10.2015

CORAM:

THE HONOURABLE DR.JUSTICE P.DEVADASS

C.R.P (MD) No.2139 of 2015
and M.P (MD) No.1 of 2015

G.Murugendran

.. Petitioner/Petitioner/
1st Defendant

-vs-

1.A.Lingam
2.A.Ramar

.. Respondents/Respondents/
Plaintiffs

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair and decreetal order passed in I.A.No.44 of 2015 in O.S.No.180 of 2010 on the file of the Additional District Munsif, Tenkasi dated 25.08.2015.

For Petitioner : Mr.Ananth C.Rajesh

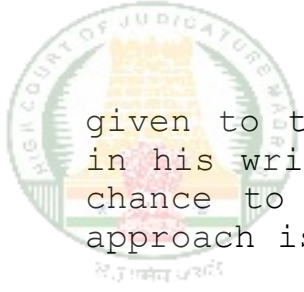
ORDER

As only a short point is involved, we shall dispose of this Civil Revision Petition today at the admission stage itself.

2. The respondents/plaintiffs sought for declaration and injunction in O.S.No.180 of 2010 in the Court of the learned Additional District Munsif, Tenkasi. As the first defendant, who is the revision petitioner herein, has not filed the written statement, he was set exparte. The other defendants, namely defendants 2 and 3, are contesting the suit and they are on record. In these circumstances, the first defendant filed I.A.No.44 of 2015 to set aside the exparte order, which was dismissed by the trial Court on the ground that in the facts and circumstances, he is not entitled for any indulgence.

3. Heard the learned counsel for the revision petitioner, perused the materials on record and the impugned order of the trial Court.

4. Along with the petition to set aside the exparte order, the petitioner has filed his written statement. It is only a exparte order and not exparte decree. The suit relates to a property matter. In such circumstances, an opportunity could have been



given to the first defendant to put forth his plea which was made in his written statement. There is no point in refusing to give a chance to the first defendant. Pragmatism rather than a literal approach is needed in this matter.

5. In the circumstances, the order and decretal order passed by the Additional District Munsif, Tenkasi in I.A.No.44 of 2015 in O.S.No.180 of 2010 are set aside. The said I.A.No.44 of 2015 stands allowed. The learned Additional District Munsif, Tenkasi will receive the written statement filed by the first defendant/revision petitioner. Thereafter, he shall proceed further in accordance with law.

6. Accordingly, the Civil Revision Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar (Per.Admn)

/True Copy/

Sub Assistant Registrar

To

1. The Principal District Judge,
Tirunelveli District.
2. The Additional District Munsif,
Tenkasi.

Copy To:-
The Registrar (Judicial),
Madurai Bench of Madras High Court,
Madurai.

+ 1 CC TO MR.ANANTH C.RAJESH, ADVOCATE IN SR NO. 60700

PS
TE/AAL-MPA/ : 20/10/2015 : 2P/5C

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