

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :07.01.2016

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(NPD)No.274 of 2015 &

M.P.No.1 of 2015

K.Placius

... Petitioner

v.

1.A.H.Mohammed Firoze
2.A.H.Mohammed Fazal

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the docket order dated 16.10.2014 made in I.A.No.702 of 2014 in O.S.No.72 of 2012 on the file of Sub Judge, Tambaram

For Petitioner : Mr.R.Chandrasudan

For respondent : Mr.Mukund R.Pandiyan

ORDER

Challenging the fair and final order passed in I.A.No.702 of 2014 in O.S.No.72 of 2012 on the file of Sub Court, Tambaram, the plaintiff has filed the above Civil Revision Petition .

2. The plaintiff filed the suit in O.S.No..72 of 2012 for recovery of possession.

3. Since the defendants failed to appear before the Trial Court, the Trial Court set them ex-parte and also passed ex-parte decree on 27.06.2013. Thereafter, the defendants filed an application in I.A.No.702 of 2014 to condone the delay of 396 days in filing the application to set aside the ex-parte decree.

4. On 16.10.2014, since the plaintiff failed to appear before the Trial Court, the Trial Court allowed the application in I.A.No.702 of 2014.

5. The learned counsel appearing for the revision petitioner submitted that even without giving an opportunity to the plaintiff to put-forth his case, the Trial Court has allowed the application.

6. The learned counsel appearing for the respondents fairly submitted that an opportunity may be given to the plaintiff to contest the application.

7. Having regard to the submissions made by the learned counsel on either side, the order passed on 16.10.2014 in I.A.No.702 of 2014 is set aside and the matter is remanded back to the Sub Court, Tambaram for fresh disposal. The Sub Judge, Tambaram is directed to consider the case of both the parties and pass a detailed order on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.

With these observations, the Civil Revision petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

07.01.2016

Index : Yes/No

Rj

To

The Sub Judge,
Tambaram

M. DURAISWAMY,J.,

Rj

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