

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.12.2016

CORAM

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

C.R.P.(PD).No.523 of 2014

and

M.P.No.1 of 2014

Kulupai Ramasamy Chettiar

Dharma Paribalana Saba rep. by its

Secretary Mr.A.Subramanian

... Petitioner/Defendant No.2

.. Vs ..

1. K.Inbavalli

... 1st Respondent/Plaintiff

2. S.Arumugam

... 2nd Respondent/Defendant-1

Prayer:- Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and final order dated 25.11.2013 passed by the learned District Munsif-cum-Judicial Magistrate, Portonovo, Cuddalore District, in I.A.No.310 of 2013 in O.S.No.34 of 2009, and prays to set aside the same.

For Petitioner : Mr.R.Muralidharan

For R-1 : Mr.S.A.Shanmugam

For R-2 : Served. No Appearance

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ORDER

The Civil Revision Petition is directed against the order dated 25.11.2013 passed by the learned District Munsif-cum-Judicial Magistrate, Portonovo, Cuddalore District, in I.A.No.310 of 2013 in O.S.No.34 of 2009, refusing to set aside the ex-parte order passed against the second defendant/revision petitioner herein.

2. The second defendant is stated to be a Trust. The suit is one for permanent injunction and the relief is sought for only against the first defendant. But however, pending suit, the second defendant was summoned to produce certain documents and give evidence on a particular day. Only after that, the second defendant realised that the interest of the Trust is in jeopardy. Therefore, the second defendant wanted to contest the suit. Immediately, the second defendant has filed the above application to set aside the ex-parte order passed against it. The learned trial Judge has dismissed the same stating that the second defendant/revision petitioner herein has not expressed any regret for non-appearance in the affidavit filed in

support of the application. Excepting the said reason, there is no other valid reason to reject the claim of the second defendant/revision petitioner. Hence, the order passed by the learned trial Judge is liable to be set aside.

3. Accordingly, the Civil Revision Petition is allowed. The order passed by the learned trial Judge in I.A.No.310 of 2013 in O.S.No.34 of 2009, dated 25.11.2013 is set aside. I.A.No.310 of 2013 shall stand allowed.

4. Considering the fact that the suit is of the year 2009, the learned trial Judge is directed to dispose the suit in O.S.No.34 of 2009 on or before 30.04.2017. Both parties are directed to co-operate for early disposal of the suit.

Consequently, the connected miscellaneous petition is closed. However, there shall be no order as to costs.

20.12.2016

Index : Yes/No
Internet : Yes/No

jrl

PUSHPA SATHYANARAYANA, J.

Jrl

To

The District Munsif-cum-Judicial Magistrate,
Portonovo, Cuddalore District.

C.R.P.(PD).No.523 of 2014

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