

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.09.2016

CORAM

THE HONOURABLE MR.JUSTICE M.DURAIWAMY

CRP(NPD)Nos.2776 to 2778 of 2016
and C.M.P.Nos.14188 to 14190 of 2016

Mrs.K.Juli@K.Selvi

.... Petitioner in all CRPs

Vs

D.Roselin

... Respondent in C.R.P. No.2776/16

D.Vimala Rani

... Respondent in C.R.P. No.2777/16

D.Mohanraj

... Respondent in C.R.P. No.2778/16

Prayer:- Civil Revision Petitions under section 115 of Civil Procedure Code to set aside the the Fair and Decreetal orders dated 06.04.2016 passed in I.A. Nos.6317, 6318 and 6319 of 2015 respectively in O.S. No.3350 of 2014 on the file of the XVIII Assistant Judge, City Civil Court, Chennai.

For Petitioner : Mr.K.M.Ramesh

COMMON ORDER

Challenging the fair and decreetal orders passed in I.A. Nos.6317, 6318 and 6319 of 2015 in O.S. No.3350 of 2014 on the file of XVIII Assistant Judge, City Civil Court, Chennai, the plaintiff has filed the above Civil Revision petitions.

2. The plaintiff filed a suit in O.S. No.3350 of 2014 for permanent injunction and for a mandatory injunction. Since, the defendants failed to file the written statement, they were set *exparte* and an *exparte* decree was passed on 08.01.2015. Thereafter, the defendants filed an application in I.A. No.6317 of 2015 to condone the delay of 61 days in filing the petition to set aside the *exparte* decree. I.A. No.6318 of 2015 was filed to set aside the *exparte* order dated 10.07.2014. The defendants also filed an application in I.A. No.6319 of 2015 to set aside the *exparte* decree dated 08.01.2015.

1. In the affidavits filed in support of the petitions in I.A. Nos.6317 and 6319 of 2015, the second defendant has stated that his mother was suffering from Jaundice and was taking native treatment and therefore he could not file the application to set aside the *exparte* decree dated 08.01.2015. In I.A. No.6318 of 2015, which was filed by the 3rd defendant to set aside the *exparte* order, she has stated that due to ailment she could not attend the court. Therefore, she was set *exparte* on 10.07.2014. The plaintiff filed her counter and contested the applications. The trial Court, taking into consideration the case of both parties, allowed all the applications.

4. On a perusal of the averments stated in the affidavits filed in support of the petitions, it could be seen that the second defendant, has satisfactorily explained the reasons for the delay and for non appearance before the trial Court. In the interest of justice, the delay was condoned on payment of costs.

5. Since the respondents have satisfactorily explained the reasons for the delay, I do not find any reason to interfere with the orders passed by the trial Court.

6. In these circumstances, the fair and decreetal orders passed by the trial Court are confirmed. The Civil Revision Petitions are dismissed.

7. Since the suit is pending from the the year 2011, I direct the XVIII Assistant Judge, City Civil Court, Chennai, to dispose of the suit in O.S.No.3350 of 2014, on merits and in accordance of law, within four months from the date of receipt of a copy of this order.

No costs. Connected miscellaneous petitions are also dismissed.

14.09.2016

vsi2/rg

To
The XVIII Assistant Judge,
City Civil Court, Chennai.

M.DURAISWAMY, J

vsi2/rg

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