

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **26.10.2016**

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

C.R.P.(P.D.) No.3071 of 2016

Mohanlal Chordia
versus

: Petitioner

1.S.D.Manohar Kular Lodha

2.Sri S.S.Jain Educational Society,
rep. By its President
No.3, Madley Road, T.Nagar

3.Sri S.S.Jain Educational Society,
rep. By its Hon. Secretary General,
No.3, Madley Road, T.Nagar

4.The Election Officer,
Sri S.S.Jain Educational Society,
No.3, Madley Road, T.Nagar

5.Sardarmal Chordia

: Respondents

PRAYER: Revision filed against the order dated 23.8.2016, in I.A.No.4412 of 2016 in O.S.No.5789 of 2014 on the file of IV Asst. City Civil Court, Chennai.

For petitioner : Mr.R.Manickavel

For respondents : Mr.M.Sunil Kumar

ORDER

The petitioner was arrayed as fifth defendant in O.S.No.5789/2014 on the file of IV Assistant City Civil Court, Chennai. The petitioner failed to appear before the Trial Court and as such, he was set exparte. The application filed by the petitioner to set aside the exparte order in I.A.No.4412 of 2016 was dismissed by the Trial Court. The said order is under challenge in this civil revision petition.

2. Heard the learned counsel for the petitioner and the learned counsel appearing on behalf of the respondents.

3. The petitioner was set ex parte on 10 December 2014. The petitioner filed application in I.A.No.4412 of 2016 to set aside the order so as to enable him to prosecute the civil suit. The learned trial Judge dismissed the application primarily on the ground that justifiable reasons were not given by the petitioner.

4. The petitioner in his affidavit filed in support of the application in I.A.No.4412 of 2016, indicated that there was a communication gap and as such, he failed to appear before the Court on 10 December 2014. The suit is still pending. The learned trial Judge ought to have taken a lenient view in the matter, given the nature of relief claimed in the civil suit. I am therefore of the view that the impugned order is liable to be set aside.

5. The order dated 23 August 2016 is set aside.

6. The application in I.A.No.4412 of 2016 is allowed subject to payment of a sum of Rs.10,000/- (Rupees Ten Thousand only) as costs, payable to the learned counsel for the respondent, within a period of one week from today.

7. The civil revision petition is allowed as indicated above. No costs.

Consequently, C.M.P.No.15559 of 2016 is closed.

26.10.2016

Index:Yes/no
tar

To
The IV Asst. City Civil Court, Chennai.

K.K.SASIDHARAN, J.

(tar)

C.R.P.(P.D.) No.3071 of 2016

26.10.2016

<http://www.judis.nic.in>