

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21-11-2016

CORAM

THE HONOURABLE THIRU JUSTICE **M. DURAISWAMY**

C.R.P.(NPD)No.3613 of 2016

1.S. Madheswaran
2.M. Saravanaprakash
3.M. Rajaganesh
4.M. Sivagamasundari

..... Petitioners

vs

P.R. Nagaraj

..... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India to take the petition on file in I.A.S.R No.7669 of 2016 in I.A.No.1724 of 2014 in O.S.No.3 of 2010 on the file of I Additional District Judge, Salem.

For Petitioner : Mr.R. Ezhilarasan

ORDER

Challenging the Docket Order passed in I.A.S.R.No.7669 of 2016 in I.A.No.1724 of 2014 in O.S.No.3 of 2010 on the file of I Additional District Court, Salem, the defendants have filed the above Civil Revision Petition.

2. The trial Court passed a preliminary decree in O.S.No.3 of 2010 on 30.08.2011. Challenging the preliminary decree passed in the suit in O.S.No.3 of 2010, the defendants preferred an appeal in A.S.No.958 of 2012 before this Court. Pursuant to the preliminary decree passed in O.S.No.3 of 2010, the respondent/plaintiff filed an application in I.A.No.1724 of 2014 for passing of final decree. Since the defendants failed to appear before the trial Court, they were set ex-parte and an ex-parte final decree was passed on 23.04.2015. Thereafter, the defendants filed an unnumbered application in I.A.S.R.No.7669 of 2016 to condone the delay of 463 days in filing the application to set aside the ex-parte final decree passed on 23.04.2015.

3. The trial Court returned the application, raising a query, with regard to the maintainability of the application. However, the learned counsel, appearing on behalf of the defendants made an endorsement in the petition answering to the query, raised by the trial Court.

4. On a perusal of endorsement in the docket order, it is clear

that the defendants were not given an opportunity to make their submissions before the trial Court. In view of the same, the defendants can be given an opportunity to make their submissions with regard to the query raised by the trial Court. Accordingly, liberty is given to the petitioners/defendants to appear before the trial court and make their submissions with regard to the maintainability of the application within one week from the date of receipt of a copy of this order. With these observations, the Civil Revision Petition is disposed of. No costs.

21-11-2016

sr

Index:no
website:yes

Note: Issue Order copy of 23.11.2016

Note: Registry is directed to return the
Original application in I.A.S.R No.
7669 of 2016 in I.A.No.1724/2014
in O.S.No.3 of 2010

To
The I Additional District Court, Salem

M. DURAISWAMY,J.,

CRP(NPD)No.3613 of 2016

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