



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.11.2016

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

CRP (MD).No.2311 of 2013 and

M.P(MD).No. 2 of 2013

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A. Muhamed Abdullah

rep. through his power agent

A. Abdul Gaffoor : Petitioner/Respondent/Respondent/Plaintiff
Vs.

1. Ayisa Ammal

2. Fathamuthuammal : Respondents/Appellants/Petitioners/Defendant
both rep. through their
power agent Muhamed Abdullah

Prayer: The Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decreetal order dated 10.12.2012 made in CMA.No.18 of 2012 on the file of the Additional District Judge, Pudukkottai reversing the fair and decreetal order dated 05.07.2011 made in I.A.No.153 of 2010 in O.S.No.229 of 2003 on the file of the Subordinate Judge, Pudukkottai.

For Petitioner

: Ms. N. Krishnaveni

For respondent

: Mr.K. Baalasundharam

ORDER

The Civil Revision Petition has been filed against the fair and decreetal order dated 10.12.2012 made in CMA.No.18 of 2012 on the file of the learned Additional District Judge, Pudukkottai reversing the fair and decreetal order dated 05.07.2011 made in I.A.No.153 of 2010 in O.S.No.229 of 2003 on the file of the learned Subordinate Judge, Pudukkottai.

2. According to the revision petitioner, on 05.06.2007, the case was posted for cross examination of the plaintiff / revision petitioner. The respondents herein / defendants were set ex parte and ex parte decree was passed on 05.06.2007. Thereafter, the application in I.A.No.153 of 2010 had been filed to set aside the ex parte decree under Order 9 Rule 13 of CPC and the said application was dismissed. Against the said order, the respondents herein filed an appeal in CMA.No.18 of 2012 before the learned Subordinate Judge, Pudukkottai. In the above said appeal, the order passed by the trial Court is set aside and the Civil Miscellaneous Appeal was allowed on condition that each of the appellants pay a cost of Rs.5,000/- on or before 16.12.2012. <https://hcservices.products.gov.in/hcservices> ~~Services provided by the trial Court shall stand dismissed.~~ If the appellants paid the above said costs, the trial Court shall dispose of the



same within a period of four months from the date of receipt of the records.

3. Being aggrieved by the said order passed by the Court below, the revision petitioner filed the present Civil Revision Petition before this Court.

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4. I have heard the learned counsel appearing for the parties and perused the materials available on record.

5. The revision petitioner filed a suit in O.S.No. 229 of 2003 on the file of Sub Court, Pudukkottai and in the said suit an ex-parte decree was passed. The respondents filed an application to set aside the ex parte decree passed by the trial Court and the said application in I.A.No.153 of 2010 was dismissed. Aggrieved by the said order, the respondents herein preferred CMA.No.18 of 2012 and the same was allowed on condition that each of the appellants pay a sum of Rs.5,000/- to the respondent. In the present case the revision petitioner has filed this Civil Revision for enhancement of compensation of deposit amount. Taking into consideration of that fact, an opportunity shall be given to the respondents to defend the case in the said suit and this Court is not inclined to enhance the said amount.

6. Considering the facts and circumstances of the case, the order passed by the learned Additional District Judge, Pudukkottai made in CMA.NO.18 of 2012 is hereby confirmed and the Civil Revision Petition is disposed of with a direction that if the said amount is not paid by the respondents, the same shall be paid within a period of two weeks from the date of receipt of a copy of this order, failing which the order passed in CMA shall stand dismissed. If the said order has been complied with by the respondents herein, the trial Court is directed to dispose of the suit within a period of six months thereafter. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(P & A)

/True Copy/

Sub Assistant Registrar

To

1. The Additional District Judge, Pudukkottai

2.The Subordinate Judge, Pudukkottai.

+1cc to M/s.KRISHNA VENI Advocate in SR. No.69473

+1cc to Mr.K. Baalasundharam Advocate in SR. No.69890