

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2017

CORAM

THE HONOURABLE MR.JUSTICE M. DURAISWAMY

C.R.P.(PD).No.1181 of 2017
and C.M.P.No.5615 of 2017

R.M.Subramaniam

... Petitioner

Vs.

Thangammal (Died)
1.Soundarrajan

2.Pavayee

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the order and decretal order dated 03.02.2017 passed in I.A.No.785 of 2015 in O.S.No.135 of 2010 on the file of the Subordinate Court, Tiruchengode, Namakkal District.

For Petitioner : Mr.V.R.Appaswamee

ORDER

Challenging the order passed in I.A.No.785 of 2015 in O.S.No.135 of 2010 on the file of the Subordinate Court, Tiruchengode, the plaintiff has filed the above Civil Revision Petition.

2.The plaintiff filed the suit in O.S.No.135 of 2010 for specific performance.

3.The 1st defendant filed his written statement and is contesting the suit. The other defendants have not filed their written statement so far. Since the defendants remained absent, on 02.12.2013, the trial Court set them exparte and an exparte decree was passed on 02.12.2013. Thereafter, the defendants filed an application under Order 9 Rule 13 of the Civil Procedure Code to set aside the exparte decree dated 02.12.2013. In the affidavit filed in support of the petition, they have stated that since they were not in Station and held up in some other place, they could not appear before the trial Court or file an application to set aside the exparte decree dated 02.12.2013 in time. Accepting the reasons given by the defendants, the trial Court set aside the exparte decree dated 02.12.2013 on payment of cost of Rs.4,000/- to be paid by the defendants on or before 03.03.2017. Since the defendants have satisfactorily explained the reasons for the delay, the trial Court has rightly allowed the application. Further, since it is a suit for specific performance, in the interest of justice, the defendants can be given an opportunity to contest the suit on merits.

4.In these circumstances, I do not find any reason to interfere with the order passed by the trial Court. The Civil Revision Petition is devoid of merits and the same is liable to be dismissed. Accordingly, the Civil Revision Petition

is dismissed.

5.Since the suit is pending from 2010, I direct the Subordinate Judge, Tiruchengode, to dispose of the suit in O.S.No.135 of 2010, on merits and in accordance with law, within a period of six months from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

Index : No
Internet : Yes
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28.03.2017

To

The Subordinate Court,
Tiruchengode, Namakkal District.

**M. DURAISWAMY, J.
va**

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