

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.03.2017

C O R A M

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

C.M.A.No.2611 of 2015 and
M.P.No.1 of 2015 and CMP.No.3401 of 2017

V.Sukumar

... Appellant

-Vs.-

1. Ramanikanth

2. V.K.S.Pandian @ Rajapandian

... Respondents

Civil Miscellaneous Appeal filed under Order 43 Rule 1 of C.P.C. against the fair and decretal order in I.A.No.12/2009 in O.S.No.8/2005 dated 01.07.2015 on the file of the Principal District Judge, Puducherry.

For Appellant ... Mr.N.Sujresh

For Respondents ... Mr.U.Karunakaran

J U D G M E N T

The 2nd defendant has preferred the above appeal, challenging the order passed in I.A.No.12 of 2009 in O.S.No.8 of 2005 dated 01.07.2015 which was filed for restoration of O.S.No.8 of 2005 and dismissed for default.

2. Heard both sides.

3. The plaintiff had filed O.S.No.8 of 2005 on the file of the learned Principal District Judge, Puducherry. The suit was dismissed for default on 16.12.2008. Therefore, the plaintiff had filed I.A.No.12/2009 to restore the suit. However, the plaintiff allowed the said application also to be dismissed for default on 20.04.2009. In order to restore the I.A.No.12/2009, which was dismissed for default, the plaintiff filed another I.A.No.236/2009 for restoration of I.A.No.12/2009. On 12.04.2012, the I.A.No.236/2009 was allowed as the defendants/respondents were called absent. After restoration of I.A.No.12/2009, the same was taken up for hearing and after giving sufficient opportunity to both the parties in order to

give a quietus to the litigation of the year 2005, the Principal District Judge, Puducherry, had allowed the said application, thus restoring the suit in O.S.No.8/2005.

4. This Court sees no error of jurisdiction or infirmity in the above said order.

5. While trying the I.A.No.236/2009, the petitioner remained absent. While allowing I.A.No.12/2009, it was agreed by the parties that they will go for the trial. However, the appeal has been preferred by the appellant and unnecessarily, the suit has been stayed for more than a year now.

6. Therefore, this Court is inclined to direct the Principal District Judge, Puducherry, to dispose of the O.S.No.8/2005 on or before 30.09.2017 and the parties are directed to appear before the trial Court on 10.04.2017, from which date, the suit has to be taken on day-to-day basis and disposed of.

7. With the above direction, the Civil Miscellaneous Appeal is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

The Principal District Judge,
Puducherry.

+1cc to Mr.N.Suresh, Advocate Sr.17457

+1cc to Mr.V.Karunakaran, Advocate Sr.18207

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CMA No.2611 of 2015

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srg 4/4/2017