

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2017

CORAM

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

Civil Revision Petition (PD) No.332 of 2017
& CMP.No.1504 of 2017

Mr.Shabeer Basha

... Petitioner

VS

1.M.Saroja
2.N.Sayeeda

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India to call for records in I.A.No.10464 of 2016 in O.S.No.3750 of 2002 from the file of the VIII Assistant City Civil Court at Chennai and examine the correctness and propriety of the order dated 19.12.2016 in IA.No.10464 of 2016 in O.S.No.3750 of 2002 passed by the VIII Assistant City Civil Court at Chennai.

For Petitioner : Mr.M.Anandaraj

For R1 : Mr.A.Kumar

ORDER

Civil Revision Petition has been filed to call for records in I.A.No.10464

of 2016 in O.S.No.3750 of 2002 from the file of the VIII Assistant City Civil Court at Chennai and examine the correctness and propriety of the order dated 19.12.2016 in IA.No.10464 of 2016 in O.S.No.3750 of 2002 passed by the VIII Assistant City Civil Court at Chennai.

2.The petitioner/second defendant has been set exparte by the trial Court on 14.12.2012. To set aside the same, the Interlocutory application in I.A.No.10464 of 2016 has been preferred.

3.The suit has been laid by the plaintiff for the recovery of amount. It is found that inasmuch as the petitioner/second defendant has not filed the written statement, he was set ex-parte. Thereafter, issues were framed and the evidence of the plaintiff and the contesting defendant has been recorded and the plaintiff's arguments also been heard. The matter has been adjourned for defendant side arguments. At that point of time, the application has been laid by the petitioner/second defendant, to set aside the ex-parte order dated 14.12.2012 passed against him.

4.It is found that 3 years after the petitioner/second defendant has been set exparte, he has come forward with an application to set aside the same.

The reasons given to the same are that the petitioner's parents were suffering from old age with serious ill health and inasmuch as the petitioner/second defendant had been looking after them, he was unable to give instructions to his counsel to put forth his case.

5.The above reasons have been found by the lower court as bereft of merits. In support of the petitioner's contention, no material is forthcoming. No infirmity is thus found with reference to the impugned order of the court below.

6.It is now represented by the learned counsel for the caveator/plaintiff that the suit has been disposed of on 25.01.2017.

7.In the light of the above reasons, I do not find any infirmity in the impugned order of the court below. In the result, the civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

09.02.2017

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Index:yes/no
Internet:yes

To

The VIII Assistant City Civil Court at Chennai

T.RAVINDRAN, J

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