

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2017

CORAM

THE HONOURABLE MR.JUSTICE M. DURAISWAMY

C.R.P.(PD).No.895 of 2017
and C.M.P.No.4391 of 2017

Govindasamy

... Petitioner

Vs.

K.Muthusamy

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 04.02.2017 made in I.A.No.36 of 2017 in O.S.No.38 of 2011 on the file of the I Additional District Munsif Court, Erode.

For Petitioner : Mr.M.Guruprasad

For Respondent : Mr.A.Sundaravadhanan

ORDER

Challenging the fair and final order passed in I.A.No.36 of 2017 in O.S.No.38 of 2011 on the file of the I Additional District Munsif Court, Erode, the 13th defendant has filed the above Civil Revision Petition.

2.The plaintiff filed the suit in O.S.No.38 of 2011 for declaration and

permanent injunction.

3. Though the 13th defendant appeared through counsel, he was set *ex parte* on 08.02.2012, since he did not file his written statement. Thereafter, after a lapse of nearly five years, the 13th defendant filed an application to set aside the *ex parte* order dated 08.02.2012. The reasons given by the 13th defendant in the affidavit cannot be accepted for the reason that he engaged a counsel and his counsel was also appearing before the trial Court without filing a written statement.

4. The learned counsel appearing for the respondent submitted that the suit is posted for arguments and at this stage, the 13th defendant has come forward with the present application to set aside the *ex parte* order passed about five years ago.

5. The reasoning given by the petitioner for not filing the written statement at the earliest point of time was rightly rejected by the trial Court.

6. 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.

7.It is open to the learned counsel appearing for the 13th defendant to make his submission with the available pleadings and evidence before the trial Court at the time of arguing the suit. No costs. Consequently, the connected miscellaneous petition is closed.

Index : No
Internet : Yes
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15.03.2017

To

The I Additional District Munsif Court,
Erode.

M. DURAISWAMY,J.

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