



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.11.2017

CORAM:

WEB COPY

THE HONOURABLE MRS.JUSTICE J. NISHA BANU

C.R.P (MD) No.1854 of 2017 and
CMP (MD) .No.9734 of 2017

R.Baskaran

.. Petitioner

Vs.

N.Kamatchi

... Respondent

PRAYER: Civil Revision Petition is filed, under Article 227 of the Constitution of India against the fair and decreetal order dated 04.01.2016 rendered in I.A.No.71 of 2015 in O.S.No.12 of 2012 on the file of the learned Additional District Judge, Pudukkottai.

For Petitioner : M/s. K.Mahalakshmi

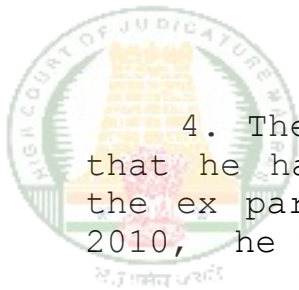
For Respondent : Mr. K.N. Govarthanan

ORDER

This Civil Revision Petition is filed against the fair and decreetal order dated 04.01.2016 passed in I.A.No.71 of 2015 in O.S.No.12 of 2012 on the file of the learned Additional District Judge, Pudukkottai.

2. The petitioner herein is the 7th defendant in the suit in O.S.No.12 of 2012 on the file of the learned Additional District Judge, Pudukkottai. The suit has been filed by the respondent / plaintiff for partition. The petitioner / 7th defendant was set ex parte in the suit in O.S.No.12 of 2012 on 22.11.2011. Thereafter, the petitioner has filed an application in I.A.No.71 of 2015 to set aside the ex parte order and the said application was dismissed by the learned Additional District Judge, Pudukkottai, on 04.01.2016, stating that it is beyond time. Against which, the petitioner has filed the present revision.

3. The learned counsel appearing for the petitioner would submit that there is no time limit for filing the petition under Order 9 Rule 7 of CPC and in support of his contention he has also relied on the order of this Court dated, 01.12.2016 made in **CRP (MD) No.2473 of 2016 (S. Santha Vs. M.S.M.K. Packiam and others)**.



4. The learned counsel appearing for the respondent submitted that he has no objection for allowing the petition to set aside the ex parte order. Since the suit has been filed in the year 2010, he would pray for early disposal of the suit.

5. Heard the learned counsel appearing for the petitioner and the respondent.

6. The time limit for setting aside the ex parte order has been settled by this Court and therefore, delay by itself cannot be a ground for setting aside the ex parte order and the above case is squarely applicable to the present case and therefore, considering the facts and circumstances of the case, the order passed by the learned Additional District Judge, Pudukkottai, made in I.A.No.71 of 2015 in O.S.No.12 of 2012 is set aside. Accordingly, the Civil Revision Petition is allowed. The learned Additional District Judge, Pudukkottai is directed to dispose of the suit in O.S.No.12 of 2012, pending on its file, within a period of six months from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

The Additional District Judge, Pudukkottai.

+ 1 cc TO M/s.K.Mahalakshmi , Advocate in SR No. 89183

+ 1 cc TO Mr.K.N.Govarthanan , Advocate in SR No. 89142

trp

AE/SV MMS/SAR1/08.01.2018/2P/4C

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