



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 20.11.2017

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P. (MD) No.2099 of 2017

WEB COPY

- 1.Samathanammal
- 2.Selvaraj
- 3.Muthumani
- 4.Arputham
- 5.Isravelrajan
- 6.Solomon
- 7.Yagobu
- 8.Jothimani

:Revision Petitioners/Petitioners
Plaintiffs

vs.

- 1.Chinnasamy
- 2.Sathiyamoorthy
- 3.Fazil Logistics PrivateLtd.,
through its Power Agent,
Ramakrishnan

: Respondents/Respondents/Defendants

PRAYER : Civil Revision Petition filed under Section 115 of the Code of Civil Procedure challenging the Fair and Decreetal order dated 17.06.2017 passed in I.A.No.563 of 2017 in O.S.No.238 of 2012 on the file of learned Principal District Munsif, Thoothukudi.

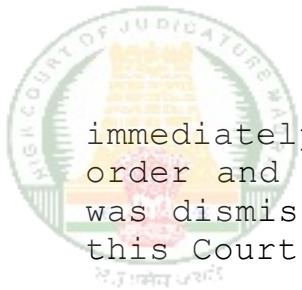
For Petitioners :Mr.S.Pon Senthilkumaran

ORDER

This Civil Revision Petition has been filed against the Fair and Decreetal order dated 17.06.2017 passed in I.A.No.563 of 2017 in O.S.No.238 of 2012 on the file of learned Principal District Munsif, Thoothukudi.

2. The plaintiffs have filed the suit in O.S.No.238 of 2012 for declaration. Before the trial Court, the suit was decreed as exparte on 04.07.2016. Hence, the petitioners/plaintiffs filed an application under Section 151 C.P.C., to condone the delay of 175 days in representation. After hearing both sides, the trial Court dismissed the application. Against which, the present Civil Revision Petition has been filed by the plaintiffs.

3. The learned Counsel for the petitioners would submit that since the matter has been listed after a long period of five years i.e., when it was called on 04.07.2016, the petitioners were not present and hence, it was dismissed for default and the petitioners were not aware of the same and after knowing the fact,



immediately they filed an application to set aside the exparte order and that was returned and when it was represented, the same was dismissed by the trial Court. Hence, he seeks interference of this Court to the order passed by the trial Court.

4. Heard the learned Counsel for the petitioners and perused the materials available on record.

5. On a perusal of the order passed by the trial Court, it could be seen that the learned Judge has dismissed the application by stating that the petitioners have filed the above suit in the year 2012 itself and it has been posted for trial only in the year 2016 and the petitioners are not interested in conducting the case and hence, he dismissed the application filed by the petitioners. It is also seen that after the trial Court returned the papers, the petitioners have not taken any effective steps to represent the same for a period of 7 months. However, there is no time limit for setting aside the exparte order as per settled law.

6. However, considering the facts and circumstances of the case and in the interest of justice, this Court feels that one more opportunity shall be given to the petitioners/plaintiffs to conduct their case on terms and accordingly the order passed in I.A.No.563 of 2017 in O.S.No.238 of 2012, on the file of the learned Principal District Munsif Court, Thoothukudi is set aside on condition that the petitioners shall pay a sum of Rs.1,500/- (Rupees One Thousand Five Hundred Only) to the Legal Aid Service Authority, attached to this Bench, within a period of one week from the date of receipt of a copy of this order, failing which, this Civil Revision Petition shall automatically be dismissed without further reference to this Court.

7. In the result, the Civil Revision Petition is allowed with the above condition.

Sd/-

Assistant Registrar(C.O)

/True copy/

Sub Assistant Registrar

To

1.The Principal District Munsif Court,
Thoothukudi.
2.The Secretary,
Legal Aid,
Madurai Bench of Madras High Court, Madurai.

+1cc to Mr.S.PON SENTHILKUMARAN, Advocate, SR. 88309

C.R.P. (PD) (MD) No.2099 of 2017

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