

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.07.2018

CORAM: THE HONOURABLE Mr.JUSTICE N.SESHASAYEE

CMA.No.6 of 2018

1.A.Ramasamy

2.R.Dhanalakshmi

.. Appellants/Defendants
3 & 5/ Petitioners

Vs.

S.Sivakumar

Proprietor

Seven Hills Trading Agency

D.No.6/1, Poosari Chenniamalai Gounder Street

Erode Taluk, Erode District.

... Respondent/Petitioner/Respondent

Prayer :

Civil Miscellaneous Appeal filed under Order 43 Rule 1 of CPC, against the fair and decretal order dated 04.11.2017 passed in I.A.No.416 of 2017 in O.S.No.12 of 2016 on the file of I Additional District Court, Erode.

For Appellants : Mr. K.Govi Ganesan

For Respondent : Ms.Zeenath Begum

JUDGMENT

This appeal is preferred against the order dismissing the application in I.A.No.416 of 2017 in O.S.No.12 of 2016, filed by the appellants under Order 9 Rule 13 CPC.,

2. The respondent herein had laid a suit in O.S.No.12 of 2016 on the file of I Additional District Court, Erode, for recovery of money, that the trial of the suit had commenced. The case was posted on 04.07.2017 for cross-examination of P.W.1. As the defendants 3 and 5 were absent, they were set exparte and an exparte decree was passed.

3. In their application to set aside the exparte decree, it is averred by the petitioners/appellants that one of the parties was indisposed. The trial Court Vide its order dated 04.11.2017

had dismissed the application, on the ground that the appellants had not furnished sufficient cause to set aside the exparte decree.

4. Heard both sides. This Court finds that the reason adduced by the appellants are satisfactory and accordingly allows this appeal and set aside the order dated 04.11.2017, passed in I.A.No.416 of 2017 in O.S.No.12 of 2016 on the file of I Additional District Court, Erode. The trial Court is further directed to get along with the trial of the suit and dispose of the suit, not later than two months from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

ds

To:

1. The I Additional District Judge
Erode.
2. The Section Officer,
VR Section, High Court,
Madras. (2 Copies)

+1cc to Ms.Zeenath Begum, Advocate, S.R.No.48688

CMA.No.6 of 2018

AK(Co)
CS/26/07/18

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