

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.03.2018

CORAM:

THE HONOURABLE MR. JUSTICE **D. KRISHNAKUMAR**

CRP(PD).No.817 of 2018
and CMP.No.4503 of 2018

Jeya

.. Petitioner

Vs

P.Jeyaraman

.. Respondent

PRAYER

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 14.12.2017 made in IA.No.567 of 2017 in OS.No.34 of 2011 on the file of the District Munsif Court, Dharmapuri.

For Petitioner : Mr.M.Selvam

For Respondent : Ms.Sripriya for
for M/s.V.Raghavachari

ORDER

The Civil Revision Petition is taken up for final disposal at the admission stage itself.

2. According to the revision petitioner, the revision

petitioner has filed a suit in OS.No.34 of 2011 for declaration and mandatory injunction against the respondent herein and one Vanaja. In the aforesaid suit, the respondent did not appear after the summons has been served. The respondent was set exparte and exparte decree was passed on 12.09.2011. Thereafter, the respondent has filed an application in IA.No.567 of 2017 to set aside the exparte decree dated 12.09.2011. The aforesaid application was allowed on terms. Challenging the aforesaid order, the revision petitioner has preferred the present Civil Revision Petition before this Court.

3. Heard the learned counsel for the petitioner and the learned counsel for the respondent and perused the materials available on record.

4. On perusal of records, according to the learned counsel for the revision petitioner, summons was duly served to the respondent, which was proved by R1 and therefore the contention of the respondent is not correct. However, the court below has allowed the application for providing an opportunity to the respondent / defendant to contest the case on merit.

5. In the light of the reasons stated by the court below and the decision of the Hon'ble Supreme Court in the case of *N.Balakrishnan Vs. M.Krishnamurthy* reported in **(1998) 7 SCC 123**, the order of the court below is confirmed and there is no warrant to interfere with the order passed by the court below.

6. At the request of the learned counsel for the revision petitioner, the District Munsif Court, Dharmapuri is directed to dispose of the suit in OS.No.34 of 2011 on merits and in accordance with law as expeditiously as possible preferably within a period of four months from the date of receipt of a copy of this Order.

7. The Civil Revision Petition is dismissed with above direction. Consequently, the connected miscellaneous petition is closed. No costs.

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22.03.2018

Speaking/Non-Speaking order

Index :Yes/No

Internet:Yes/No

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D. KRISHNAKUMAR J.,

lok

To

The District Munsif Court,
Dharmapuri.



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