

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2018

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

CRP (NPD) No. 1851 of 2016  
and  
CMP. No. 9714 of 2016

V. Jegannathan .. Petitioner

Vs

Anbukarasi .. Respondent

PRAYER: This Civil Revision Petition is filed under Section 115 of Code of Civil Procedure, to set aside the fair and final order dated 19.01.2016 made in I.A. No. 551 of 2015 in O.S. No. 185 of 2009 on the file of the Principal Sub Court, Salem.

For Petitioner : Mr.K.S. Karthik Raja

For Respondent : Mr. R. Nalliappan

**ORDER**

This Civil Revision Petition is filed to set aside the fair and final order dated 19.01.2016 made in I.A. No. 551 of 2015 in O.S. No. 185 of 2009 on the file of the Principal Sub Court, Salem.

2. The respondent has filed the suit in O.S. No. 185 of 2009 seeking for maintenance and other reliefs against the petitioner herein. The suit was set ex-parte on 21.08.2013. Aggrieved by the same, the petitioner filed an application in I.A. No. 155 of 2015 requesting to set aside the ex-parte decree. The said application was allowed by the court below, on condition that the petitioner shall deposit a sum of Rs.1,00,000/- towards maintenance. According to the petitioner, he has filed this application within the time limit and he has also stated bonafide reasons for his non-appearance on the date of hearing of the suit. Without considering the said submission of the petitioner, the court below has directed him to deposit a sum of Rs.1,00,000/-. Hence, the petitioner has approached this Court by way of revision petition.

3. Per contra, the learned counsel for the respondent would submit that the suit has been filed for maintenance and the petitioner with an intention to drag on the proceedings purposely has not appeared before the court below on the date of hearing. Hence, the court below has rightly imposed the condition to deposit a sum of Rs.1,00,000/- by the revision petitioner.

4. Admittedly, the petitioner has filed the application to set aside the ex-parte decree within the time. This Court is of the view that the order of the court below is liable to be set aside, in so far as conditional order is concerned, in order to provide one more opportunity to the petitioner. Further, the respondent undertakes to co-operate for disposal of the suit.

5. In fine, the order dated 19.01.2016 made in I.A. No. 551 of 2015 in O.S. No. 185 of 2009 by the Principal Sub Court, Salem is set aside. In so far as imposition of the conditional amount of Rs.1,00,000/-, is modified by directing the Revision petitioner to pay a cost of Rs.5000/- to the respondent, within a period of three weeks from the date of receipt of a copy of this order. In the event of the petitioner complies with the order, the trial court is directed to dispose of the suit, in accordance with law, as expeditiously as possible, preferably on or before 30.06.2018. In case of default on the part of the petitioner, the court below can pass appropriate orders.

D. KRISHNAKUMAR J.,

avr

6. The Civil Revision Petition is allowed, on the above terms.  
Consequently, the connected Miscellaneous Petition is closed. No costs.

15.02.2018

Index: Yes/ No

Speaking Order/Non Speaking Order

[Issue order copy on 23.04.2018]

To

The Principal Subordinate Court,  
Salem.

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