



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Tuesday, the Twenty Sixth day of June Two Thousand and Eighteen

PRESENT

The Hon`ble Mr.Justice M.SUNDAR

CMP(MD) No.2878 of 2018

IN

AS(MD) No.166 of 2010

1 VIJAYA
2 PERIYATHAMBI
3 VALLIMAYIL
4 ANNANDI

... PETITIONERS/APELLANTS

Vs

R.SANKAR NARAYANAN

... RESPONDENT/RESPONDENT

Prayer in CMP(MD) No.2878 of 2018:

This Petition filed under Order 41 Rule 19 of CPC praying to restore in A.S.No.166 of 2010 by setting aside the order of dismissal for default on 28.02.2018.

Prayer in AS(MD)No.166 of 2010 :

This First Appeal is filed under Section 96 of Civil Procedure Code praying to allow this appeal, set-aside and reverse the Judgment and Decree in O.S.No.73 of 2008 on the file of the Principal District & Sessions Judge, Theni dated 18.2.2010 and dismiss the suit with costs of the Appellants/ Defendants throughout.

ORDER : This Petition is coming on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.T.S.MOHAMED MOHIDEEN, Advocate for the petitioners and Mr.M.A.M.RAJA, Advocate for the sole respondent, and this Court made the following order:-

Four appellants in the main first appeal are the four petitioners herein. The lone respondent in the main first appeal is the sole respondent in this Civil Miscellaneous Petition.

2.The main first appeal, ie., AS.No.166 of 2016, came to be dismissed for non prosecution on 28.02.2018.

3.Four appellants in the main first appeal have now come up with the instant petition with a prayer for restoration of the first appeal which was dismissed for default.



4.The reason given in the affidavit filed in support of this petition is that the client could not give suitable instructions to the learned Counsel for the appellants.

5.However, today in the hearing, Mr.T.S.Mohamed Mohideen, learned Counsel for the petitioners / appellants submits that he now has adequate instructions and he undertakes to argue the main first appeal in the next listing.

6.In the light of the learned Counsel for the appellants agreeing to argue the main first appeal in the next listing, Mr.M.A.M.Raja, learned Counsel for the sole respondent very fairly submits that he has no serious opposition or objection to this petition.

7.I have perused the affidavit filed in support of the petition and I have also heard the learned Counsel on both sides.

8.In the light of the narrative supra, the prayer in this petition is acceded to. In other words, this petition is ordered as prayed for.

9.Registry to list the main first appeal under the caption 'For Arguments' on 03.07.2018.

Sd/-

Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar

TO

THE PRINCIPAL DISTRICT AND SESSIONS JUDGE, THENI.

ORDER DATED : 26.06.2018
HEARING DATE : 03.07.2018

ORDER

CMP(MD) No.2878 of 2018 IN
AS(MD) No.166 of 2010

Giving directions etc., as
stated within.