



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 27.02.2018

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P. (PD) (MD) No.394 of 2018

and

C.M.P. (MD) No.1760 of 2018

1.Kamatchiammal

2.Pandiselvi

... Petitioners / Petitioners /
Petitioners / Respondents 2 & 3

vs.

1.J.Muthulakshmi

... 1st Respondent / 1st Respondent /
1st Respondent / Appellant

2.S.Rameshpandian

... 2nd Respondent / 2nd Respondent /
2nd Respondent / 1st Respondent

PRAYER: Petition filed under Article 227 of the Constitution of India, to call for the records relating to the impugned fair and decreetal order dated 25.01.2018 in I.A.No.65 of 2017 in I.A.No.23 of 2016 in A.S.No.10 of 2015 on the file of learned Subordinate Judge, Periakulam.

For Petitioners : Mr.N.Dilip Kumar

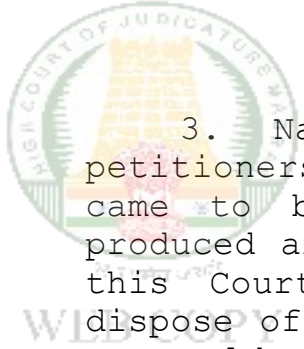
ORDER

This Civil Revision Petition has been filed to set aside the fair and decreetal order passed by the learned Subordinate Judge, Periakulam, in I.A.No.65 of 2017 in I.A.No.23 of 2016 in A.S.No.10 of 2015 dated 25.01.2018.

2. The facts of the case, culled out from the affidavit filed in support of the petition, are as follows:

2.1. The first respondent herein, as plaintiff, has filed a suit in O.S.No.237 of 2012, against the second respondent and the petitioners herein as Defendants 1 to 3 respectively, for the relief of declaration. The said suit was dismissed, challenging which, A.S.No.10 of 2015 came to be filed. Pending proceedings, the petitioners herein have filed I.A.No.23 of 2016 seeking to amend the written statements filed in the suit and the said I.A., was dismissed for default on 11.10.2017, along with I.A.No.10 of 2016, filed by the respondents in A.S.No.10 of 2015 seeking to frame additional issues.

2.2. Thereafter, I.A.Nos.65 & 64 of 2017 came to be filed to restore I.A.Nos.23 & 10 of 2016 and the same were also dismissed on 25.01.2018. Aggrieved over the same, the present civil revision petition came to be filed, challenging the order dated 25.01.2018 made in I.A.No.65 of 2017 in I.A.No.23 of 2016 in A.S.No.10 of 2015.



3. Narrating the facts, the learned Counsel for the petitioners would submit that their application for restoration came to be dismissed, stating that the petitioners have not produced any medical certificate and also there is a direction by this Court in C.R.P.(MD)No.2492 of 2017 dated 20.12.2017, to dispose of the appeal proceedings within a stipulated time limit. He would further submit that the petitioners are having a good case and it is just and necessary to amend the written statements and therefore, he prays for allowing the present petition.

4. Heard the learned Counsel appearing for the petitioners and perused the documents placed on record. Notice to the respondents is dispensed with.

5. Perusal of records would show that the impugned petition has been dismissed stating that the petitioners have not produced any evidence to show that they were admitted in hospital and also stating that there is a direction by this Court to dispose of the appeal within three months.

6. Considering the facts and circumstances of the present case, in my considered opinion, ends of justice will be met if an opportunity is given to the petitioners to put forth their case. In result, the impugned order dated 25.01.2018 is set aside and I.A.No.23 of 2016 is restored. The learned Judge is directed to dispose of the interlocutory application in I.A.No.23 of 2016 within a period of three weeks from the date of receipt of a copy of this order. If the petitioners does not co-operate for disposal of the above I.A., the learned Judge is at liberty to decide the same on merits.

7. With the above directions, this civil revision petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To

The Subordinate Judge,
Periakulam.

+1cc to Mr.N.Dilip Kumar, Advocate Sr.No.57444

GK

VB/SV/MMS/SAR3/09/03/2018/2P/3C

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