



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.09.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CRP (MD) No.643 of 2018 (NPD)
and
CMP (MD) No.2799 of 2018

1.V.M.Selvin

2.Benjamin Bindhu

... Petitioners

Vs.

M.Alex
represented through his
power agent V.M.Ramola

... Respondent

Prayer: Civil Revision Petition is filed under Section 115 of Civil Procedure Code, to set aside the fair and decretal order dated 06.01.2018 passed in I.A No.364 of 2016 in O.S No.32 of 2009 on the file of the District Court, Kanniyakumari at Nagercoil by allowing this Civil Revision Petition.

For Petitioners	: Mr.N.Pragalathan
For Respondent	: Mr.R.Murugan

ORDER

The revision petitioners are the defendants in O.S No.32 of 2009 on the file of the District Court, Kanniyakumari at Nagercoil. It is a money suit. Exparte decree came to be passed against them. To set aside the same, they filed an application under Order 9 Rule 13 of CPC. There was a huge delay. To condone the same, I.A No.364 of 2016 was filed. The court below allowed the same by order dated 06.01.2018 on condition that half of the suit amount is to be deposited. The said condition was not complied with. As a result, the I.A suffered dismissal. In these circumstances, this civil revision petition has been filed.

2.Heard the learned counsel on either side.

3.When the matter was taken up for admission, this Court imposed a condition that the defendant should deposit a sum of Rs.2.00 lakhs to the credit of the suit in question. The said condition has since been complied with. The revision petitioners have no objection for the plaintiff to withdraw the said amount of RS.2.00 lakhs together with accrued interest. This would be without prejudice to the rights of the defendants to contest the suit



proceedings on merits.

4. Recording the same, this Court allows this civil revision petition on the following terms :

1. The order dated 06.01.2018 made in I.A No.364 of 2017 is modified.

2. The delay occasioned in filing the above set aside petition is condoned.

3. The court below shall number the set aside application and allow the same.

4. The revision petitioners are given one more opportunity to contest the suit on merits.

5. Since the written submission was filed along with the set aside application, the court below shall frame the issues expeditiously and conclude the entire suit proceedings within a period of six months from the date of receipt of a copy of this order.

5. This civil revision petition is allowed accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/

Assistant Registrar(T&P)

/True copy/

Sub Assistant Registrar(CS-IV)

To

1. The District Judge, Kanniyakumari District at Nagercoil.

2. The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai. (2 COPIES)

+1cc to Mr.R.MURUGAN, Advocate, SR.No. 84236

+1cc to Mr.N.PRAGALATHAN, Advocate, SR.No.84230

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SKM

KK/SV/SAR-4/24.10.2018/2P-6C