



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.10.2018

CORAM

WEB COPY

THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN

C.R.P(PD) (MD) .No.2452 of 2017
and
C.M.P(MD) .No.11609 of 2017

M.Subramani ... Petitioner/Respondent/7th defendant

vs.

Annakodi ... Respondent/Respondent/Plaintiff

PRAYER: Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 19.01.2017 made in I.A.No.288 of 2016 in O.S.No.68 of 2010 on the file of the Additional Subordinate Court, Karur.

For Petitioner : Mr.Raguvarangopalan
For Respondent : Mr.M.P.Senthil

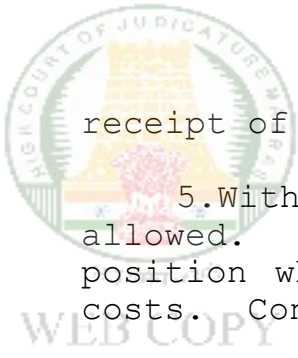
O R D E R

The respondent herein filed O.S.No.68 of 2010 on the file of the Additional Subordinate Court, Karur, seeking the relief of partition. The revision petitioner herein is shown as the seventh defendant. In the said suit, the revision petitioner was set ex-parte. He filed I.A.No.288 of 2016 under Order IX Rule 7 C.P.C for setting aside the order, whereby he was set ex-parte. The Court below by an order dated 19.01.2017 dismissed the said interlocutory application holding that the said interlocutory application was not accompanied by a condone delay petition. Questioning such an order, this civil revision petition has been filed.

2.Heard the learned counsel appearing on either side.

3.The application has been taken out only under Order IX Rule 7 C.P.C and there is no limitation for filing such an application. The Court below has proceeded on an erroneous premise.

4.In this view of the matter, the order impugned in this civil revision petition is set aside and this Civil Revision Petition is allowed. The suit is of the year 2010. The revision petitioner has filed written statement along with I.A.No.288 of 2016. The Court below shall take the said written statement on record and conclude the suit proceedings, within a period of six months from the date of



receipt of a copy of this order.

5. With the above direction, the Civil Revision Petition is allowed. The revision petitioner will be put back to the same position which obtained on the date when he was set ex-parte. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (AE)

/True Copy/

Sub Assistant Registrar (CS-II)

To

1. The Additional Subordinate Judge, Karur.
2. The Record Keeper, VR Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+ 1 CC TO Mr.K.PRABHAKAR, ADVOCATE IN SR No. 88663
+ 1 CC TO Mr.M.P.SENTHIL, ADVOCATE IN SR No. 88786

RMK

TE/SV/SAR-2 : 09/11/2018 : 2P/6C

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