



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.09.2018

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (PD) (MD) Nos.1417 of 2016
and
C.M.P. (MD) No.6937 of 2016

Leelavathy

... Petitioner

Vs.

Vasanthy

... Respondent

PRAYER: Petition filed under Article 227 of Constitution of India, to set aside the docket order passed in I.A.No.165 of 2016 in O.S.No.94 of 2016 on the file of Principal District Munsif Court, Thoothukudi dated 06.06.2016.

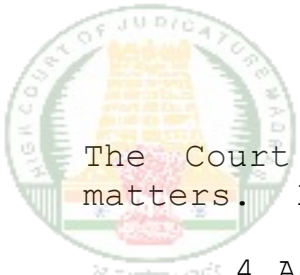
For petitioner : Mr.M.P.Senthil
For Respondent : No Appearance

ORDER

The plaintiff in O.S.No.94 of 2016 on the file of the Principal District Munsif, Thoothukudi is the revision petitioner herein. It is a suit for bare injunction. In the said suit, the revision petitioner filed I.A.No.165 of 2016. Notice was ordered on 11.03.2016 returnable by 28.03.2016. On 28.03.2016, an advocate entered appearance for the respondents / defendants. But on the next hearing date, no counter was filed and there was also no representation. Therefore, the respondent was set ex parte on 06.06.2016. Even though, there was no application for setting aside the order setting the respondent ex parte, suo motu orders for reopening, were passed and the matter was posted for the appearance of the parties. The said suo motu order is challenged in this Civil Revision Petition.

2.Though the respondent has been served and her name is printed in the cause list, she has not chosen to make her appearance either in person or through counsel.

3.This Court is of the view that once the respondent was set ex parte, an application for setting aside the same ought to have been filed. In this case, no such application was filed.



The Court below was not justified in suo motu reopening the matters. Hence, the order of the Court below is set aside.

4. Accordingly, this Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar (CS-III)

To:

The Principal District Munsif,
Thoothukudi.

+ 1 CC TO Mr.M.P.SENTHIL, ADVOCATE IN SR No. 83147

PNN
TE/PM/SAR-3 : 05/10/2018 : 2P/3C

ORDER MADE IN
C.R.P. (PD) (MD) Nos. 1417 of 2016 and
C.M.P. (MD) No. 6937 of 2016
07.09.2018