



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.09.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CRP (MD) No.1793 of 2016 (NPD)

1.Gomathy

2.Rajan

... Petitioners

Vs.

Ganesan @ Srinivasan
Respondent

...

Prayer : Civil Revision Petition is filed under Section 115 of Civil Procedure Code, to call for the records relating to the order dated 11.04.2016 in I.A No.341 of 2014 in O.S No.74 of 2013 on the file of the I Additional Subordinate Judge, Nagercoil, Kanyakumari District, set aside the same.

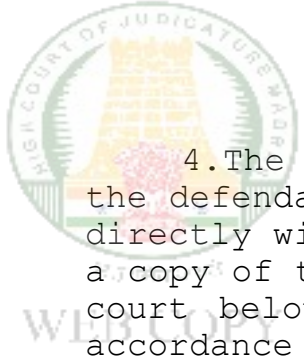
For Petitioners	: Mr.S.Xavier Rajini
For Respondent	: Mr.M.R.S.Prabhu

ORDER

The defendants in O.S No.74 of 2013 on the file of the I Additional Sub Court, Nagercoil, Kanyakumari District are the revision petitioners herein. The suit is one for declaration and permanent injunction. The suit was decreed exparte on 30.01.2014. To set aside the same, the revision petitioners herein filed I.A under Order 9 Rule 13 of CPC. But then, there was a delay of 214 days in filing the set aside application. To condone the same, I.A No.341 of 2014 was filed. The court below dismissed the said I.A by order dated 11.04.2016 on the ground that sufficient cause was not made out. Questioning the same, this civil revision petition has been filed.

2.Heard the learned counsel on either side.

3.This Court is of the view that since substantial property rights are involved, the revision petitioners deserve to be given one more opportunity to contest the suit on merits. In this view of the matter, the order impugned in this civil revision petition is set aside. This civil revision petition is allowed. The court below shall number the set aside petition and allow the same. But then, the revision petitioners will have to be put on terms.



4.The learned counsel for the revision petitioners submits that the defendant will pay a sum of Rs.2,000/- as cost to the plaintiff directly within a period of three weeks from the date of receipt of a copy of this order. The said submission is placed on record. The court below is directed to dispose of the suit on merits and in accordance with law.

5.This civil revision petition is allowed. No costs.

Sd/-
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar(CS-III)

To

1. The I Additional Subordinate Judge,
Nagercoil, Kanyakumari District.

+1cc to S.Xavier Rajini, Advocate Sr.No.84432

SKM

MK/SKN/SAR3/04.12.2018/2P/3C

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