



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.06.2018

CORAM

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

C.R.P. (MD) .No. 1976 of 2016

and C.M.P. (MD) No. 9300 of 2016

S. Mohan

... Petitioner/Respondent/Defendant

Vs.

1. Y. Anna Star

2. M. Hirushikesan (Minor)

3. M. Sivaswathi (Minor)

[Minor Respondents-2 & 3 represented by
the first respondent/Mother].

... Respondents/Petitioners/Plaintiffs

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 29.06.2016 in P.O.P. No.89 of 2013 in Unnumbered O.S.No.--- of 2013 on the file of the learned District Judge, Kanyakumari at Nagercoil.

For Petitioner : Mr.Balaji for Mr.M.Ravi
For Respondents-1 to 3 : Mr.R.Manimaran

O R D E R

The petitioner has come forward with this Civil Revision Petition to set aside the fair and decreetal order dated 29.06.2016 in P.O.P. No.89 of 2013 in Unnumbered O.S.No.---of 2013 on the file of the learned District Judge, Kanyakumari at Nagercoil.

2. When the matter is taken up for hearing, the learned counsel for the petitioner reported that the suit in O.S.No.50 of 2016 on the file of the learned District Judge, Kanyakumari at Nagercoil was dismissed for default on 04.10.2016. The learned counsel for the petitioner also submitted that a copy of Judgment dated 04.10.2016 in O.S.No. 50 of 2016.

3. Heard both sides and perused the documents available on record.

4. On perusal of the order in O.S.No.50 of 2016, the learned trial Judge without following the procedure under Rule XXXIII Rules 1 and 2 of Code of Civil Procedure, has simply dismissed the suit 'for non-prosecution as plaintiff not taken steps to service of summons of defendant'.



4. The learned counsel appearing for the respondent, who is the plaintiff in O.S.No.50 of 2016, submitted that, though the above said suit was dismissed for non-prosecution on 04.10.2016, he has filed an application for restoring the suit. The application can be proceeded by the respondent, but once the suit was dismissed, this Civil Revision Petition challenging the order of the indigent person is automatically dismissed. Therefore, this Civil Revision Petition is dismissed as infructuous by giving liberty to the petitioner to file an application to restore the Civil Revision Petition if the suit is restored on file. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(W)

/True Copy/

Sub Assistant Registrar

To

The District Judge,
Kanniyakumari at Nagercoil.

+1cc to Mr.G.RAMESH, Advocate Sr.No.67225

Ksa

MK/SB/SAR 4/28.06.2018/2P/3C

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