



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.08.2018

CORAM

WEB COPY

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

C.R.P. (MD) .No.820 of 2016

1. Rajamani
2. Manickam
3. Sakthivel
4. Raja

... Petitioners/Petitioners/
Defendants

Vs.

Hemalatha

... Respondent/Respondent/
Plaintiff

PRAYER : Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, to set aside the fair and decreetal order passed by the learned District Munsif cum Judicial Magistrate, Thiruppathur, in I.A.No.131 of 2014 in O.S.No.120 of 2012, dated 16.12.2014.

For Petitioners	: Mr.S.Deenadhayalan
For Respondent	: Mr.R.Vijayakumar

O R D E R

The defendants suffered an ex-parte decree on 11.02.2013. To set aside the same, the Revision petitioners filed an application under Order 9 Rule 13 of C.P.C. There was a delay of 380 days in filing the same. To condone the delay, I.A.No.131 of 2014 was filed. The Court below dismissed the said application. Questioning the correctness of the said order, this Civil Revision petition has been filed.

2. Heard the learned counsel on either side.

3. It is a suit for declaration and permanent injunction. Since substantial rights are involved, this Court is of the view that in the interest of justice, the Revision petitioners can be given one final opportunity. In this view of the matter, the order passed by the learned District Munsif cum Judicial Magistrate, Thirupathur, in I.A.No.131 of 2014 in O.S.No.120 of 2012, dated 16.12.2014, is set aside. The Court below is directed to number the set aside application and allow the same also. The suit shall be restored to file and the Revision petitioners shall contest the same on merits. But



then, the Revision petitioners will be put on terms. The learned counsel for the Revision petitioners undertakes that the Revision petitioners shall pay a sum of Rs.5,000/- (Rupees Five Thousand only) towards costs to the plaintiff directly. The Revision petitioners further undertake that they will give their fullest co-operation for speedy disposal of the suit. The suit is of the year 2012. Therefore, the learned District Munsif cum Judicial Magistrate, Thiruppathur, is directed to conclude the proceedings in O.S.No.120 of 2012 within a period of four months from the date of receipt of a copy of this order.

4. With these directions, the Civil Revision petition stands allowed. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-
Assistant Registrar(C.O)

/True Copy/

Sub Assistant Registrar(CS-IV)

pmu

To

The District Munsif cum Judicial Magistrate,
Thiruppathur.

+1cc to Mr.S.Deenadhayalan, Advocate in SR No.80375
+1cc to Mr.R.Vijaya Kumar, Advocate in SR No.80561

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NM/RP/SAR 4/28.09.18/2P/4C