



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.08.2018

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (MD) (NPD)No.1641 of 2018

Thillaimaniammal ...Petitioner/Petitioner/ Plaintiff

/Vs./

1.C.Lakshmanan

2.P.Adaikalam

S.Duraiaraj (died)

3.The Manager,

Arulmigu Aadmanathaswami Devasdanas,

Avudaiyarkoil, Avudaiyarkoil Post,

Avudaiyarkoil Taluk,

Pudukkottai District.

4.Thiruperundurai,

Arulmigu Aadmanathaswami Thirukoil,

Parambarai Trustee,

Thiruvavaduthurai Matt,

Shrimukthi panchasara Desinga Athinagartha,

Thiruvavaduthurai Post,

Mayiladudurai Taluk,

Nagapattinam District. ...Respondents / Respondents /
Defendants

Prayer: Civil Revision Petition - filed under Section 115 of the Civil Procedure Code, praying to set aside the fair and decreetal order datd 28.03.2018 in I.A.No.800 of 2017 in O.S.No.84 of 2011 on the file of the District Munsif Court, Aranthangi.

For Petitioner : Mr.K.Balasundharam

For R-2 : Ms.M.Sakunthala Devi

For R-3 : Mr.N.Balakrishnan

ORDER

The revision petitioner filed O.S.No.84 of 2011 on the file of the District Munsif Court, Aranthangi. The suit was filed for declaration and permanent injunction. The suit came to be dismissed for default on 28.07.2018. The plaintiff filed an application for restoration of the suit. There was a delay of 290 days in filing the said application. Since the Court below took the view that sufficient cause was not made out, the Interlocutory Application was dismissed. The correctness of the order is challenged in this civil revision petition.



2. Heard the learned counsel on either side.

3. This Court is of the view that since the suit is for declaration and permanent injunction, there would be miscarriage of justice, if the petitioner is not allowed to prosecute the suit to its logical conclusion. But, then the petitioner will have to be necessarily put on terms.

4. The learned counsel appearing for the revision petitioner submitted that he would pay the cost of this Civil Revision Petition. Therefore, the revision petitioner is directed to pay Rs.2,000/- [Rupees Two Thousand only] directly to Mr.Balakrishnan, learned counsel appearing for the contesting respondent in this matter. This exercise shall be done within a period of one week from the date of receipt of a copy of this order.

5. Subject to this condition, the order impugned in this civil revision petition is set aside. The Court below is directed to formally number the Interlocutory Application filed by the revision petitioner and the suit shall be restored and the Court below shall dispose of the suit within a period of four months from the date of receipt of a copy of this order.

6. With the above directions, the Civil Revision Petition is allowed.

SD

ASSISTANT REGISTRAR (WRITS)

TRUE COPY

SUB ASSISTANT REGISTRAR (CS IV)

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To

1.The District Munsif Court, Aranthangi.

COPY TO:

The Record Keeper, Vernacular Record Section,
Madurai Bench of Madras High Court, Madurai.(2 copies)

1CC TO MR. K. BAALASUNDARAM, ADVOCATE SR 79159

1CC TO MR. N. BALAKRISHNAN, ADVOCATE SR 79512

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Order made in
C.R.P. (MD) (NPD) No.1641 of 2018
20.08.2018