



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.09.2018

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (PD) (MD) .No.2067 of 2018
and
C.M.P. (MD) No.9156 of 2018

1.Kasthuri
2.Balasubramani

... Petitioners/Petitioners/
Petitioners/Plaintiffs

Vs.

1.Subbulakshmi
2.Radhika
3.Kamatchiammal
4.Chinnadurai

... Respondents/Respondents/
Respondents/Defendants

PRAYER : Petition filed under Section 115 of Civil Procedure Code, to set aside the fair and decreetal order dated 25.07.2018 passed in I.A.No.169 of 2018 in I.A.No.239 of 2007 in O.S.No.184 of 2007 on the file of the learned District Munsif cum Judicial Magistrate Court, Kodaikanal and allow the present Civil Revision Petition.

For petitioner : Mr.T.K.Gopalan

ORDER

The plaintiffs in O.S.No.184 of 2007 on the file of the District Munsif cum Judicial Magistrate, Kodaikanal are the revision petitioner herein. It is a suit for declaration and permanent injunction. The plaintiffs filed I.A.No.239 of 2007 for appointing an advocate commissioner.

2.The learned counsel appearing for the revision petitioners would submit that an advocate commissioner was actually appointed, but he did not fulfill the terms of the warrant. In the meanwhile, the suit was dismissed for default, but subsequently restored to file. His specific contention is that if the suit was restored to file, it should have been served on the respondents along with the pending I.As. But then, I.A.No.239 of 2007 was not restored. Seeking its restoration, the revision petitioners filed one more I.A., and I.A.No.169 of 2018 for



condoning the delay of 1007 days. The Court below by order dated 25.07.2018, dismissed the said I.A.

3. This Court is of the view that when the main suit was restored, I.A.No.239 of 2007, if it had been dismissed for default, also would have been automatically restored. There is no need to file one more application for restoration.

4. With this observation, this Civil Revision Petition is disposed of. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar (CS-IV)

To:

1. The District Munsif cum Judicial Magistrate,
Kodaikanal.
2. The Record Keeper,
VR Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+ 1 CC TO Mr.T.K.GOPALAN, ADVOCATE IN SR No. 86353

PNN

TE/SV/SAR-4 : 12/10/2018 : 2P/5C

ORDER MADE IN
C.R.P. (PD) (MD) .No.2067 of 2018 and
C.M.P. (MD) No.9156 of 2018
25.09.2018