

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 31.01.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

C.R.P.(PD).No.82 of 2019

P.V.Balaji

...Petitioner

Vs

1. P.Revathy

2. Minor Shreyas

3. D.Venkatesan

4. The Registrar of Birth and Death,
Pondicherry Municipality,
Pondicherry.

...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the Judgement and decree dated 24.07.2018 passed in O.S.No.308 of 2016 and consequently restore the suit and direct the I Additional District Munsif, Erode to number the un-numbered I.A.(CFR).No.6753 of 2018.

(Prayer amended as per order dated 31.01.2019 made in C.M.P.No.2419 of 2019 in C.R.P.(PD).No.82 of 2019)

For Petitioner : Mr.M.Guruprasad

ORDER

The prayer sought for in the revision petition is to set aside the docket order dated 24.07.2018, made in unnumbered I.A.(CFR).No.6753 of 2018 in O.S.No.308 of 2016 on the file of the I Additional District Munsif Court, Erode.

2. It is the submission of the learned counsel for the petitioner that the first plaintiff has not been pursuing the suit properly and had allowed the suit to be dismissed for default. The petitioner is the second defendant in the suit. The relief sought for in the suit is for declaring the second defendant as the father of the second plaintiff. The learned counsel for the petitioner submits that he is willing to submit to the decree sought for, since its his submission that he is the father of the second plaintiff. The learned counsel further submits that the first plaintiff has not been taking earnest efforts to participate in the suit proceedings, since she is living abroad. In the interest of the minor child and also since the petitioner herein is willing to submit to the decree, he would submit that he had made an application before the trial Court seeking for his appointment as the guardian for the second plaintiff. The trial Court had however returned the said application on the ground that the main suit itself has been dismissed

<http://www.judis.nic.in> for default.

3. In my view, the interest of the minor child would be borne in mind

and since the second defendant has come forward to submit himself with a decree, it would be appropriate to restore the suit.

4. In the light of the above observations, the Judgement and Decree dated 24.07.2018, passed in O.S.No.308 of 2016 is set aside. Consequently, the suit in O.S.No.308 of 2016 is restored to the file of the learned I Additional District Munsif, Erode.

5. The learned I Additional District Munsif, Erode is called upon to direct his Registry to take the application in I.A.(CFR).No.6753 of 2018. The petitioner is at liberty to make appropriate application seeking for appointment of a different person as next friend of the minor child and on receipt of such an application, the learned I Additional District Munsif, Erode shall dispose of the same on its own merits and in accordance with law, as expeditiously as possible.

6. Accordingly, the Civil Revision Petition stands disposed of. No costs.

31.01.2019

Index:Yes/No

<http://www.judis.nic.in> Speaking order: Yes/No

hvk

To

The I Additional District Munsif,
Erode.



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M.S.RAMESH.,J

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C.R.P.(PD).No.82 of 2019

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