

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.07.2019

CORAM

THE HONOURABLE **MR.JUSTICE C.SARAVANAN**

C.R.P.(PD).No.1504 of 2015

and

M.P.No.1 of 2015

1.B.Laxmi

2.S.Balasubramanian

... Petitioners

Vs.

R.Varadharajan

... Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 26.03.2015 passed by the Additional District Munsif, Namakkal in I.A.No.873 of 2014 in O.S.No.128 of 2011.

For Petitioners : Mr.K.Bijai Sundar

For Respondents : Mr.T.Dhanya Kumar

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ORDER

The present Civil Revision Petition has been filed to set aside the fair and decretal order dated 26.03.2015 passed by the Additional District Munsif Court, Namakkal in I.A.No.873 of 2014 in O.S.No.128 of 2011.

2.The petitioners are the defendants in O.S.No.128 of 2011 before the District Munsif Court, Namakkal. The said suit was filed by the respondent for declaration and for a permanent injunction. In the said suit, the petitioners/defendants filed their written statement.

3.Though, the 2nd petitioner/ 2nd defendant adopted the written statement filed by the 1st petitioner/ 1st defendant, there was no vakalat filed by the 2nd petitioner/ 2nd defendant.

4.In the course of the proceedings, the respondent/plaintiff filed I.A.No.1209 of 2012 for amendment in the plaint which was allowed and time was given to the petitioners to file their additional written statement. The petitioners remained absent and were therefore set exparte on 12.07.2014. Therefore, they had filed I.A.No.873 of 2014 which came to be dismissed vide the impugned order.

5.Aggrieved by the said order, the petitioners have filed the present Civil Revision Petition.

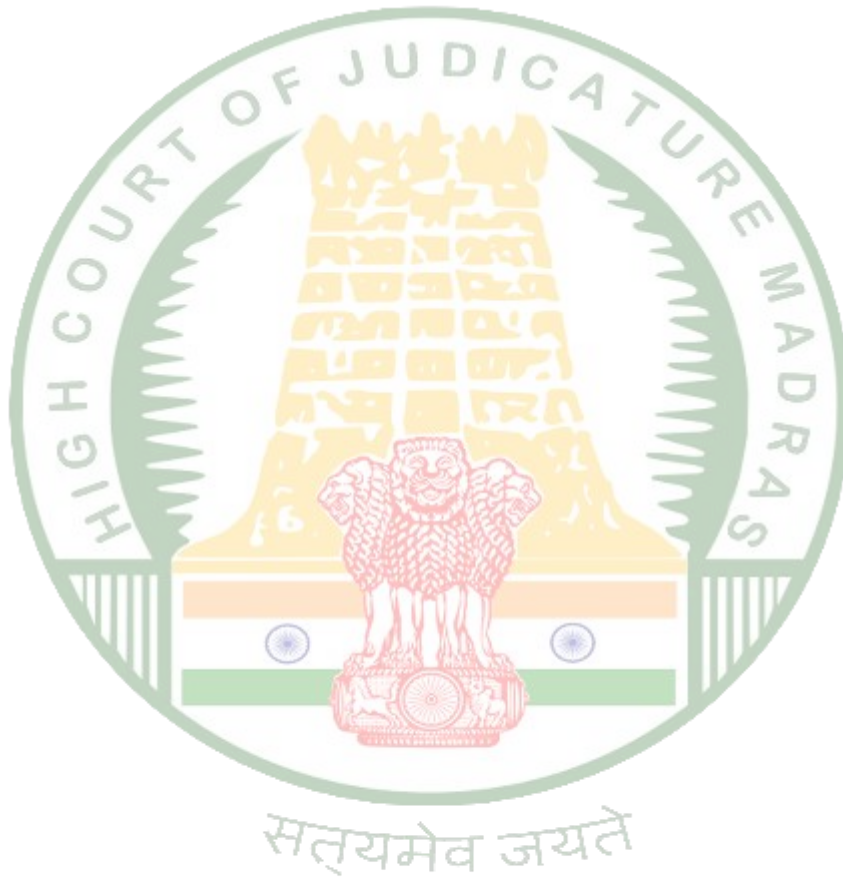
6. Meanwhile, the 2nd petitioner separately filed I.A.No.1391 of 2014, to set aside the exparte decree dated 12.07.2014 in the said suit against the 2nd petitioner. The said application was allowed on 21.01.2015. The 2nd petitioner is thus entitled to file written statement. Therefore, there is no harm in allowing the present Civil Revision Petition. Accordingly, the impugned order passed in I.A.No.873 of 2014 is set aside.

7. The petitioners are therefore permitted to file written statements within a period of four weeks from the date of receipt of a copy of this order.

8. The Principal District Munsif Court, Namakkal shall thereafter frame the issues and dispose the suit within a period of six months from the date of receipt of a copy of this order.

9. The present Civil Revision Petition stands disposed with the above observations. No cost. Consequently, connected Miscellaneous Petition is closed.

Index:Yes/No
Internet :Yes/No
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C.SARAVANAN, J.

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To

1.The Additional District Munsif Court,
Namakkal.

2.The Section Officer,
V.R.Section, High Court, Madras.

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