

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2019

CORAM

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CRP (NPD).No.1455 of 2013

and

M.P.No.1 of 2013

1. Kuppusamy

2. Radhakrishnan

3. Nagarajan

4. Natarajan

... Petitioners

.. Vs ..

Royar

... Respondent

PRAYER : Civil Revision Petition filed under Section 115 of C.P.C, against the fair and decreetal order dated 27.11.2012 made in I.A.No.70 of 2010 in O.S.No.70 of 2007 on the file of the District Munsif Cum Judicial Magistrate, Nannilam.

For Petitioners

: Mr.S.Sounthar

For Respondent

: No Appearance

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ORDER

This civil revision petition is filed by the petitioners against the order dated 27.11.2012 passed by the learned District Munsif Cum Judicial Magistrate, Nannilam, in I.A.No.70 of 2010 in O.S.No.70 of 2007.

2. The plaintiffs in the suit in O.S.No.70 of 2007 are the revision petitioners herein. The plaintiffs have filed the said suit for bare injunction in respect of an agricultural land and an ex-parte decree was passed on 18.12.2007. Thereafter, a petition was filed to set aside the ex-parte decree along with a petition to condone the delay of 623 days. The respondent herein/first defendant has stated that there was a village panchayat conducted, wherein he has agreed to pay a sum of Rs.5,000/- and also paid the same to the plaintiffs, since the plaintiffs in the suit have agreed to withdraw the suit. In the interlocutory application, both the parties have let in evidence and marked the documents.

3. On consideration of the arguments, it appears that the learned District Munsif-cum-Judicial Magistrate, Nannilam, has passed an order without considering the evidence adduced therein. In fact, it appears from the impugned order that there was no mentioning about the evidence recorded in the Interlocutory application and the same was also not duly reflected in the order. However, the disputed fact that whether a sum of Rs.5,000/- has been given by the first defendant as agreed in the village panchayat is true or not and the plea of the respondent herein regarding the alleged village panchayat is true or not and whether there is sufficient cause in filing the petition with a delay, is made out or not being considered by the Trial Court.

4. The respondent called absent. There is no representation for the respondent either in person or through counsel. In view of the facts extracted above, this Civil Revision Petition is allowed and the order passed by the learned District Munsif Cum Judicial Magistrate, Nannilam, in I.A.No.70 of 2010 in O.S.No.70 of 2007, dated 27.11.2012 is set aside and the matter is remitted back to the trial Court for fresh

consideration. The trial Court is directed to take the application in I.A.No.70 of 2010 on its file, hear the arguments and pass a speaking order, within a period of twelve weeks from the date of receipt of a copy of this order, in the light of the observations made above. No costs. The connected miscellaneous petition is closed.

11.12.2019

Internet : Yes
Index : Yes/No
Speaking Order : Yes/No

Jrl

To

The District Munsif Cum Judicial Magistrate,
Nannilam.



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RMT.TEEKAA RAMAN., J.

Jrl



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