

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2019

CORAM

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CRP(PD).No.1553 of 2013

and

M.P.No.1 of 2013

S.Sundaram

... Revision Petitioner
/Defendant

Versus

Arulmighu Karukathamman Thirukoil,
Chetput, Chennai,
Represented by its Executive Officer

... Respondent/Plaintiff

This Civil Revision Petition has been filed under Section 227 of the Constitution of India, to set aside the order of the learned XII Assistant City Civil Judge, Chennai, dated 29.01.2013 insofar as the imposing the condition made in I.A.No.11157 of 2012 in O.S.No.7342 of 2011.

For Petitioner : Mr.C.Jeremiah

For Respondent : No appearance

J U D G M E N T

The Civil Revision Petition has been filed against the dismissal order passed in I.A.No.11157 of 2012 in O.S.No.7342 of 2011, by the learned XII Assistant City Civil Judge, Chennai, which was filed under Order 9 Rule 13 of C.P.C.

2 The learned counsel for the petitioner would contend that the respondent herein is Arulmighu Karukathamman Thirukoil, representing through its Executive Officer has filed the suit in O.S.No.7342 of 2011 seeking for relief of declaration of title and recover of possession of the suit property, which was decreed ex-parte on 29.02.2012 and due to inadvertence, the defendant in the suit was unable to present on the hearing date, resulted in ex-parte and an application has been filed under Order 9 Rule 13 to set aside the ex-parte decree and to afford him reasonable opportunity to defend him the case.

3 The learned counsel for the respondent herein before the lower Court has been served, proof has been filed, when the respondent called absent and set ex-parte.

4 Taking into consideration the narrow scope of the prayer sought for, this Court is inclined to allow the petition on the ground that reasonable opportunity has to be accorded to the defendant in the suit to contest the suit on merits and it appears that the petition was also filed in time. From a perusal of the docket order, it is found that the conditional order of stay granted at the time of admission, is also complied with.

5 In the result, the Civil Revision Petition stands allowed and the order passed in I.A.No.11157 of 2012 in O.S.No.7342 of 2011 by the learned XII Assistant City Civil Judge, Chennai, is set aside and the matter is ordered to be restored to file. The petitioner who is tenant and the defendant in the suit is permitted to file written statement within a period of three weeks from the date of receipt of a copy of this order and the Trial Court on receipt of said written statement, is directed to dispose of within a period of sixteen weeks from thereafter. No costs. Consequently, connected Miscellaneous Petition is closed.

02.12.2019

dua

Speaking Order:Yes/No

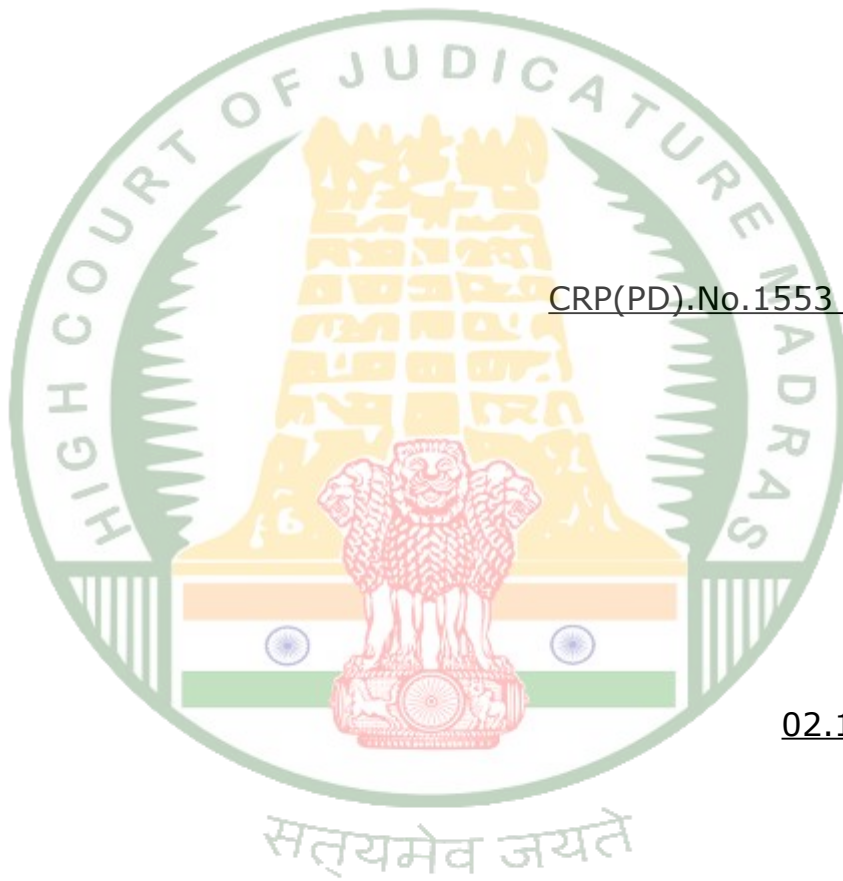
To
The XII Assistant City Civil Judge,
Chennai.

WEB COPY

CRP(PD).No.1553 of 2013

RMT.TEEKAA RAMAN., J.

dua



CRP(PD).No.1553 of 2013

02.12.2019

WEB COPY