

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.09.2019

CORAM:

THE HONOURABLE Mr. JUSTICE R. SURESH KUMAR

C.R.P. (NPD) No. 1720 of 2019

and

C.M.P. No. 11003 of 2019

K.P. Muthusamy ... Petitioner

Vs.

1. Mrs. Alavayammal

2. Mrs. Sampooranam

3. Mrs. Arukkanai

4. Sellappan

5. Ganesan

6. Mrs. Kavitha

... Respondents

Prayer: Petition filed under Section 115 of Civil Procedure Code against the order dated 01.02.2019 allowing the I.A. No. 725 of 2017 in O.S. No. 182 of 2009 on the file of Additional Subordinate Judge, Namakkal.

For Petitioner

: Mr. A.D. Janarthanan

For Respondents

: Mr. T. Dhanya Kumar

ORDER

This Civil Revision Petition has been filed against the fair and decretal order passed in I.A. No. 725 of 2017 in O.S. No. 182 of 2009 on the file of Additional Subordinate Judge, Namakkal, by order dated 01.02.2019.

2. The petitioner is the defendant in the suit. The revision petitioner has been set exparte and the exparte decree was passed and in order to set aside the same, a petition under Order IX Rule 13 of Civil Procedure Code has been filed. Since there has been a delay of 65 days, at the instance of the petitioner, the petition in I.A. No 725 of 2017 was filed.

3. Having heard the said application, the trial Court, through the impugned order, rejected the same by not satisfying with the reason therein.

4. Heard, Mr. A.D. Janarthanan, learned counsel for the petitioner and Mr. T. Dhanaya Kumar, learned counsel appearing for the respondents.

5. Since the delay is only 65 days and whatever be the reason, whether to be acceptable or plausible or not, the main issue has to be decided only in the suit, otherwise, the chance of contesting the suit for the defendant would get defeated.

6. In view of the above, this Court is inclined to allow the Civil Revision Petition with the following terms:

"That the impugned order is hereby set aside and the revision is allowed, on payment of a sum of Rs. 2,000/- (Rupees Two Thousand Only) payable by the revision petitioner to the respondents within a period of two weeks from the date of receipt of a copy of the order."

7. With this direction, the Civil Revision Petition is allowed. Consequently, connected Miscellaneous Petition is closed. No costs.

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Index: Yes / No

Speaking / Non speaking order

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R.SURESH KUMAR, J.

vji

To

The Additional Subordinate Judge,
Namakkal.



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