

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.09.2019

CORAM

THE HON'BLE MR.JUSTICE R. SURESH KUMAR

Civil Revision Petition No.3046 of 2019  
and  
C.M.P.No.19565 of 2019

1.Krishnan  
2.Jayalakshmi

... Petitioners

-Vs-

Meena

... Respondent

Prayer : Civil Revision Petition under Article 227 of the Constitution of India against the fair and decreetal order dated 09-07-2019 passed in I.A.No.92 of 2019 in O.S.No.49 of 2014 on the file of the Principal Sub Judge at Puducherry.

For Petitioners : Mr.P.Veeraraghavan

O R D E R

This Civil Revision Petition has been filed against the fair and decreetal order dated 09-07-2019 made in I.A.No.92 of 2019 in O.S.No.49 of 2014 on the file of the Principal Sub Judge at Puducherry.

2. Before the Court below, the defendant, who has been set exparte by the order dated 24.10.2014 in O.S.No.49 of 2014, had filed the application in I.A.No.92 of 2019 under Order IX Rule 13 read with Section 151 of C.P.C., to set aside the exparte judgment and decree passed against the defendant.

3. The said application, having been heard by the learned Judge, was allowed by the impugned order dated 09.07.2019. Assailing the same, the present Civil Revision Petition has been filed by the plaintiffs.

4. Learned counsel for the petitioners would submit that subsequent to the exparte decree, Execution Petition has been filed by the decree holder i.e., the plaintiffs and in that Execution Petition, notice has been served on the judgment debtor / defendant and on receipt of the notice, she entered appearance through counsel and sought for time to respond to the Execution Petition. When that being so, subsequently the exparte decree passed by the Court cannot be set aside on the

reason given by the learned Judge in the impugned order.

5. I have gone through the impugned order, where the learned Judge has held that a perusal of the records discloses that, with regard to the hearing fixed on 20.03.2014, summons have been issued by the Court below, the same had not been served on the defendant and it has been claimed that it was pasted in the premises of the defendant. Therefore, the defendant claimed that she did not have any knowledge of the pendency of the suit and therefore, there had been a reason for her for not appearing before the Court. The said reason given by the defendant, who filed the said application before the Court below, was accepted by the learned Judge, in the impugned order.

6. Moreover, it seems that there had been a delay of more than 200 days in filing the present application under Order IX Rule 13 and in order to condone the said delay, an application under Section 5 of the Limitation Act had already been filed. That was also, on contest, allowed by the Court below, as against which, admittedly the plaintiffs / revision petitioners herein did not file any appeal or revision, thereby the period of delay in approaching the Court for filing the petition to set aside the exparte decree since has already been condoned, there can be no further plausible reason with the plaintiffs to agitate only the present petition ie., the petition under Order IX Rule 13 to set aside the exparte decree, where the learned Judge has given plausible reason to accept the petition.

7. In that view of the matter, the order passed by the Court below dated 09.07.2019 in I.A.No.92 of 2019 does not suffer from any infirmity and therefore, this Court is of the view that this Civil Revision Petition deserves to be dismissed. Accordingly, it is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

KST

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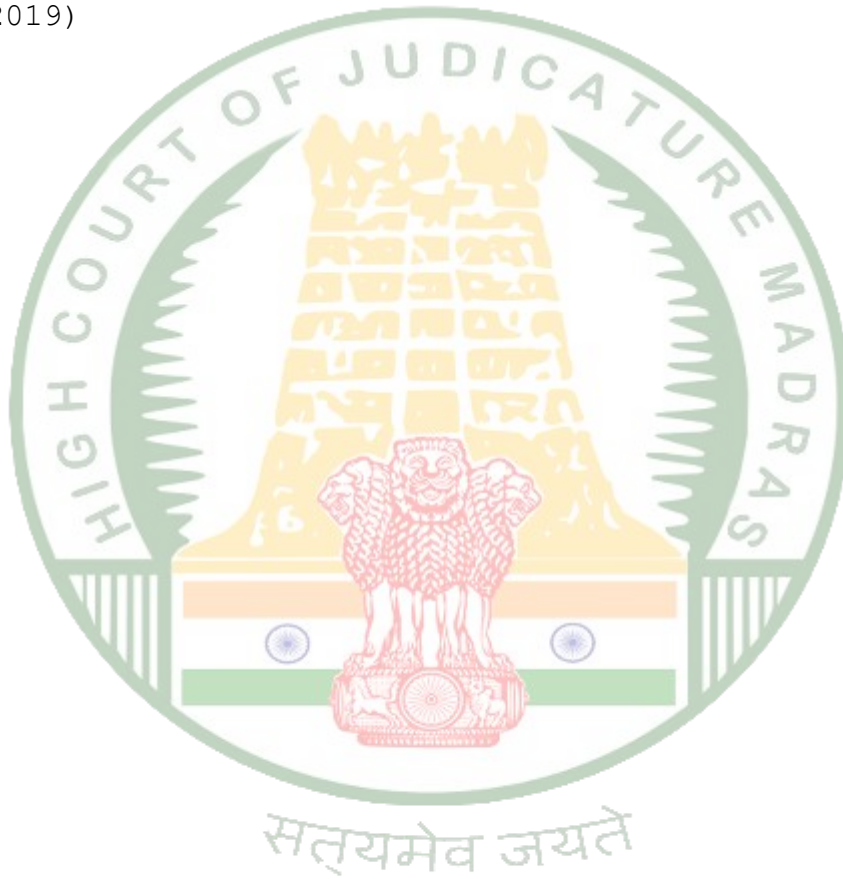
1.Principal Sub Judge  
at Puducherry.

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

+1cc to Mr.P.Veeraraghavan, Advocate, S.R.No.79486

C.R.P. No.3046 of 2019

PA (CO)  
GN(11/10/2019)



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