

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.11.2019

CORAM:

THE HONOURABLE Mr. JUSTICE R.SURESH KUMAR

C.R.P.(PD) No.3854 of 2019 and
C.M.P.No.25404 of 2019

1.Thangam
2.R.Prabhakaren
3.R.Sukumar
4.4.Amutha
5.Balaji
6.Sutha

... Petitioners

Vs.

Chithra

... Respondent

Prayer: Petition filed under Article 227 of the Constitution of India, praying to set aside the order dated 23.09.2019 passed by Hon'ble District Munsif Court, Namakkal in I.A.No.1 of 2019 in I.A.No.776 of 2016 in O.S.No.9 of 2009.

For Petitioners : Mr.P.T.Rakesh

सत्यमेव जयते

ORDER

This revision petition has been filed against the fair and decretal order passed in I.A.No.1 of 2019 in I.A.No.776 of 2016 in O.S.No.9 of 2009 on the file of the Principal District Munsif Court, Namakkal.

2.Before the trial Court, the 6th defendant filed the present application to examine herself to prove her case in Application No.776 of 2016 which was filed under Section 5 of the Limitation Act to condone the delay in filing the application to set aside the exparte decree.

3.The said application since has been allowed by the trial Court, aggrieved over the same, the revision petitioners, who are the respondents/plaintiffs before the trial Court, have filed the present revision.

4.Heard Mr.P.T.Rakesh, learned counsel appearing for the revision petitioners, who would submit that, absolutely there is no reason for examining herself, as already she examined her husband in I.A.No.776 of 2016. When that being so, the question of examining herself does not arise and such a move to examine herself by filing the present I.A., is nothing but a vexatious application to drag on the proceedings. However, without having appreciated the same in proper perspective, since the learned Judge has allowed the said IA, thus, the revision petitioners aggrieved over the same, filed this revision to seek indulgence of this Court.

5.I have considered the said submission made by the learned counsel for the revision petitioners and perused the materials placed before this Court.

6.If at all the respondent, who was the petitioner in the I.A.No.1 of 2019 and 6th defendant in the suit wants to establish her case that, she had sufficient cause for not approaching the Court in time and that is the reason, in order to condone the delay, if she filed the said I.A.No.776 of 2016, to prove the said case on the side of the respondent/6th defendant, certainly she can examine herself and if at all she is examined in that IA, certainly the revision petitioners, who are the respondents in the IA, would have a chance of cross examine her and based on the evidence to be let in by the respondent/6th defendant in the IA, it is ultimately the Court has to decide whether there are sufficient reasons on the part of the 6th defendant/respondent for not coming to the Court in time to file an application to set aside the exparte decree.

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7.Therefore, in order to have that chance the trial Court thought of allowing this application, permitting the respondent/6th defendant to

let in evidence. The said move on the part of the learned Judge, in deciding this application, in the considered opinion of this Court, cannot be found to be erroneous or it does not attach with any infirmity or perversity. Therefore, this Court feels that, the said impugned order does not warrant any interference from this Court. Resultantly, this Civil Revision Petition fails and hence, it is dismissed. No costs. Consequently, connected Miscellaneous Petition is also dismissed.

28.11.2019

Index : Yes/No

Speaking Order: Yes/No
Sgl

To

The District Munsif Court,
Namakkal.

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C.R.P.(PD).No.3857 of 2019

R.SURESH KUMAR, J.

Sgl



C.R.P.(PD).No.3854 of 2019

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