

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.01.2019

CORAM:

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

AND

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

OSA.No.406 of 2018

1.K.Bala Venkatesh
2.B.Vetrivelar

.... Appellants

Vs

S.Pramila

.... Respondent

Prayer:- This Original Side Appeal is filed, under Order XXXVI Rule 9 of the Original Side Rules, read with clause 15 of the Letters Patent, against the fair and decreetal order dated, 27.04.2018, passed by the learned Single Judge of this Court, in OA.No.8129 of 2017 in CS.No.194 of 2015.

For Appellants : Mr.K.V.Ananthakrushnan

For Respondent : Mr.T.S.Baskaran

JUDGEMENT

(Judgement of the Court was made by N.KIRUBAKARAN, J.)

This Original Side Appeal has been preferred by the Defendant in CS.No.194 of 2015, against the fair and decreetal order dated, 27.04.2018, passed by the learned Single Judge of this Court, in OA.No.8129 of 2017 in CS.No.194 of 2015, refusing to condone the delay, in filing the Written Statement.

2. This Court heard Mr.K.V.Ananthakrushnan, the learned counsel for the Appellants and Mr.Baskaran, the learned counsel for the Respondent.

3. The Respondent herein had filed the above suit for specific performance and for permanent injunction, before the Original Side of this Court. Since the Written Statement was not filed in time, the above application to condone the delay in filing the Written Statement had been filed by the

Respondent. The said application had been dismissed, by the impugned order. Hence, this Original Side Appeal has been filed.

4. Taking into consideration the payment of Rs.37,00,000/- as advance amount, by order dated, 02.11.2018, in the interest of justice, this Court was inclined to allow the Appeal, by setting aside the impugned order passed by the learned Single Judge of this Court, however, subject to the Appellants paying a sum of Rs.20,000/- to Sivananda Gurukulam, Kattankulathur. It is reported that the said conditional order has been complied with by the Appellants.

5. Moreover, interest of justice requires an opportunity to the Appellants to contest the matter. Otherwise, the Respondent would be able to take away the valuable property without contest. Therefore, to give opportunity to both the parties, this Original Side Appeal is allowed. No costs.

6. Since the Written Statement had already been filed, the matter is directed to be posted before the Court for framing issues within two weeks.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

Srcm

To

The Sub Assistant Registrar,
Original Side,
High Court, Madras.

+1cc to Mr.T.S.Baskaran, Advocate sr.5273

OSA.No.406 of 2018

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srg 22/02/2019