



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:20.11.2019

CORAM:

THE HONOURABLE **MR.JUSTICE N.ANAND VENKATESH**

CRP. (MD) .No.2080 of 2012 (PD)

and

M.P. (MD) .No.1 of 2012

Asmu @ Asmathulla

...Petitioner

Vs.

1.Kuraisha Beevi
2.Vallal Meeran Kani
3.Rasia Begam
4.Thoulath Nooria

...Respondents

PRAYER: This Petition filed under Article 227 of the Constitution of India to call for the records of the learned District Munsif, Ramanathapuram made in I.A.No.129 of 2012 in I.A.No.146 of 2011 in O.S.No.109 of 2010 and set aside the fair and decreetal order dated 10.07.2012.

For Petitioner : Mr.S.Deenadhayalan

For R-1, R-3
& R-4 : Mr.R.Murugan

For R-2 : No Appearance

O R D E R

This Civil Revision Petition has been filed against the fair and final order passed by the Court below allowing the application to restore the earlier application filed under Order 9 Rule 7 of the Code of Civil Procedure.

2. The petitioner is the plaintiff in the suit and he filed a suit against the respondents / defendants claiming for the relief of declaration and permanent injunction. A Written statement was filed by the respondents. The respondents were absent and therefore, they were set *ex parte* by an order dated 24.01.2011. The application was filed to set aside the order setting the respondents *ex parte*. While this application was pending, there was no representation on the side of the respondents on the date of hearing and therefore, the petition was dismissed for default. This impelled the respondents to file the present application to restore



the Interlocutory Application that was dismissed for default.

3. The Court below has allowed the application after accepting the reasons assigned in the affidavit and by imposing a condition that the respondents will pay a sum of Rs.3,000/- towards cost to the petitioner on or before 09.08.2012.

4. Heard the learned counsel appearing for the petitioner and the learned counsel appearing on behalf of the respondents.

5. It is seen from the records that the substantial rights will have to be decided in the suit with regard to the property. Therefore, an opportunity must be given to the respondents to defend the suit. The Court below has given reasons for allowing the application and this Court does not find any illegality or infirmity in the order passed by the Court below.

6. In the result, the Civil Revision Petition stands dismissed and the Court below is directed to complete the proceedings in O.S.No.109 of 2010, within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Records)

// True Copy //

Sub Assistant Registrar(CS)

tsg

To

1.The District Munsif, Ramanathapuram.

COPY TO

The Record Keeper,
Madurai Bench of Madras High Court,
Madurai.(2 COPIES)

+1CC TO MR.S.DEENADHAYALAN, Advocate Sr. No. 100109

CRP. (MD) .No.2080 of 2012 (PD)

20.11.2019

PK(CO)

TR(09.12.2019) 2P 5C