



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.07.2019

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

REV.APLC (MD) No.65 of 2019

in

CRP. (MD No.526 of 2018

and

C.M.P. (MD) Nos.2355 and 2356 of 2019

Pon.Gangadharan

... Petitioner/Respondent

Vs.

K.Subbaiya

... Respondent/Petitioner

PRAYER: Petition filed under Order 47, R.1 C.P.C and Section 114 of C.P.C., praying to review the order dated 14.06.2018 made in CRP. (MD) (NPLD) No.526 of 2018 by allowing this review petition.

Prayer in CRP(MD). 526/ 2018 :

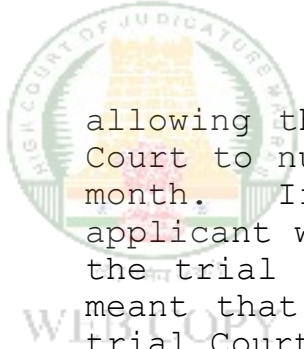
Civil Revision Petition filed under section 115 of C.P.C., against the fair and decreetal order passed in I.A.No.206 of 2016 in O.S.No.47 of 2012 dated 18.12.2017 on the file of the III Additional District Court, Tirunelveli.

For Petitioner :Mr.V.A.Dhana Aravindha Balaji

For Respondents :Mr.H.Arumugam

ORDER

The review applicant herein was the respondent in C.R.P.(MD) No.526 of 2018. He filed O.S.No.47 of 2012 before the III Additional District Judge, Tirunelveli. It is a suit for specific performance. An exparte decree came to be passed in his favour. To set aside the same, the respondent in this review application namely defendant in the suit, filed a set aside petition. However, there was a delay of 835 days in filling the set aside petition. The condone delay petition was dismissed. Challenging the same, the C.R.P.(MD) No.526 of 2018 came to be filed. Vide Judgment dated 11.06.2018, this Court set aside the order passed by the trial Court and condoned the delay of 835 days in filling the set aside petition. The respondent herein was put on terms. Seeking review of the said order, this petition has been filed.



allowing the condone delay petition, this Court directed the trial Court to number the set aside petition and dispose it of within one month. If the Court had left the matter, at that, the review applicant will not have any grievance. But this Court also directed the trial Judge to dispose of the suit on merits. This virtually meant that the set aside petition itself had to be allowed by the trial Court and its discretion was taken away.

3. On the other hand, the learned counsel appearing for the respondent herein pointed out that much water has flown under the bridge. He would submit that the set aside petition was allowed on 24.10.2018 on merits. The review applicant did not choose to challenge the said order. Subsequently, one other application was filed and the same was contested on merits and again allowed.

4. I am of the view that the order passed by this Court does not warrant any interference. However, it must be stated that if the review applicant chooses to challenge the order dated 24.10.2018, the order dated 14.06.2018 will not come in the way.

5. With this clarification, the review petition is dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(AD-I)

/TRUE COPY/

Sub Assistant Registrar

To

The III Additional District Judge,
Tirunelveli.

+1 CC to M/s.DHANA LAW ASSOCIATES, Advocate (SR-75506[F] dated 16/07/2019)

+1 CC to M/s.H.ARUMUGAM, Advocate (SR-75640[F] dated 17/07/2019)

REV.APLC(MD)No.65 of 2019
16.07.2019

rmi
JM/31.07.2019/2P-4C