



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Friday, the First day of March Two Thousand and Nineteen

PRESENT

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

CMP(MD) No.11252 of 2018

IN

SA(MD) No.181 of 2015

A. NAZEER AHAMED

... PETITIONER/APPELLANT

Vs

A.AMEER AHAMED

... RESPONDENT/RESPONDENT

PRAYER IN CMP(MD).NO.11252 OF 2018:-

Civil Miscellaneous Petition is filed Under order 41 Rule 19 of Civil Procedure Code, praying to set-aside the dismissal order dated 25.06.2018 passed in S.A.(MD) No.181 of 2015 and restore the same.

PRAYER IN SA(MD).NO.181 OF 2015:-

Second Appeal is filed under Section 100 of Code of Civil Procedure, against the Judgment and Decree passed in A.S.No.3 of 2012 on the file of the Principal Sub Court, Tirunelveli, dated 06.01.2015 confirming the Judgement and Decree passed in O.S.No.485 of 2008 on the file of the Principal District Munsif Court, Tirunelveli, dated 16.11.2011.

ORDER : Civil Miscellaneous Petition is coming on for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.T.SELVAN, Advocate for the petitioner and of MR.M.P.SENTHIL, learned Counsel for the Respondent, this court made the following order:-

This petition has been filed by the petitioner seeking to set aside the dismissal order dated 25.06.2018 made in S.A(MD)No.181 of 2015.

2.The learned counsel for the respondent/plaintiff would submit that the suit property has been delivered and possession has been taken.

3.The learned counsel for the respondent/defendant would submit that due to illness of his son, he could not get back the case bundle from the previous counsel and hand over the same to the present counsel and due to non-appearance on his side, the second appeal was dismissed for non-prosecution. If the second appeal is restored to file, he will succeed in the appeal.

4.Heard both sides.



5. Considering the reasons stated in the affidavit filed in support of the petition, this Court is inclined to set aside the dismissal order dated 25.06.2018 made in S.A.(MD)No.181 of 2015.

6. This petition is accordingly ordered.

7. List the case for final hearing on 15.03.2019.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS)

TO

1 THE PRINCIPAL SUB JUDGE,
TIRUNELVELI.

2 THE PRINCIPAL DISTRICT
MUNSIF, TIRUNELVELI.

COPY TO

1 THE SECTION OFFICER,
JUDICIAL SECTION,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

2 THE SECTION OFFICER,
V.R. SECTION,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI. (2 copies)

ORDER DATED :01/03/2019

HEARING DATED: 15.03.2019

ORDER

CMP(MD) No.11252 of 2018
IN
SA(MD) No.181 of 2015

Giving direction and
etc. as stated within.

TR (08.03.2019) 2P 6C