



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 18.02.2019
CORAM
THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

CRP(MD) .No.2659 of 2018 (PD)
and
C.M.P. (MD) .No.11670 of 2018

Ponnambalam

... Revision Petitioner/1st Respondent/
1st Defendant

Vs.

1.Gandhi ... 1st Respondent/Petitioner/Plaintiff

2.Rakkammal

3.Kannusamy

4.Kunjaram

5.Revathi

6.Sharmila

7.Meenakshi

8.Sigappi

... Respondents 2 to 8/Respondents 2 to 8/
Defendants 2 to 8

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India against the fair and decreetal order dated 07.08.2018 in I.A.No.1164 of 2017 in O.S.No.8 of 2013 on the file of the learned District Munsif, Sivagangai.

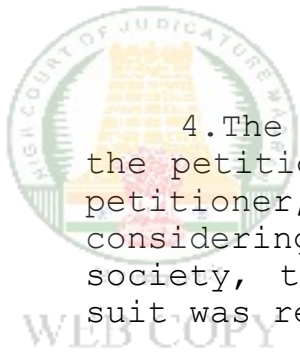
For Petitioner : Mr.AL.Kannan
For R3 & R7 : Died
For R1,R2,R4,R5
R6 & R8 : No appearance

O R D E R

This Civil Revision Petition has been preferred by the petitioner against the fair and decreetal order, dated 07.08.2018, passed in I.A.No.1164 of 2017 in O.S.No.8 of 2013 by the learned District Munsif, Sivagangai.

2.The said I.A was filed by the plaintiff to restore the suit, which was dismissed for his non-appearance.

3.The respondents have filed their counter statement stating that the case was posted for trial and sufficient adjournments were given from 14.09.2016 till 04.11.2016 and even on that date, when the plaintiff did not appear for trial, the suit was dismissed. Further the petition filed by the plaintiff to restore the same was filed at a very belated stage, nearly after 5 years.



4.The trial Court after considering the averments made by both the petitioner and the respondents and especially the status of the petitioner, who is working as a Special Sub-Inspector of Police and considering his responsibility towards his job as well as to the society, the trial Court has considered the said petition and the suit was restored.

5.It is the grievance of the petitioner herein that the main suit was dismissed for non-appearance on 04.11.2016 and the application to restore the suit ought to have been filed on 13.11.2017, whereas, in the present case, the application to restore the suit was filed on 05.12.2017.

6.It is observed from the records that the first respondent herein is a Special Sub-Inspector of Police and since he was unable to make his appearance on the date of hearing, an opportunity should be given to the first respondent/plaintiff, who is holding a responsible post. It is further observed that the suit was dismissed on 04.11.2016 and the application to restore the said suit was filed on 05.12.2017 along with delay and hence, the order passed by the trial Court is very much reasonable and does not require any interference.

7.In view of the above, the Civil Revision Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed. However, the trial Court is directed to proceed with the case in day to day basis and taking into account the fact that first respondent is an Officer.

Sd/-

Assistant Registrar (CS II)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The District Munsif,
Sivagangai.

2.The Record Keeper,VR Section,
Madurai Bench of Madras High Court,
Madurai.(2 copies)

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and

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NS

KK/SAR/08.04.2019/ 2P- 4C