

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.01.2020

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

A.S.No.317 of 2010

Devamoorthy

..Appellant/Plaintiff

Vs.

Kavitha Chandran

..Respondent/Defendant

PRAYRE: First Appeal filed against the Judgment & Decree dated 13.11.2009 passed in O.S.No.310 of 2004 on the file of the Additional District Court (Fast Track Court), Namakkal.

For Petitioner : Mr.D.Shivakumaran

O R D E R

The appeal suit is filed against the judgment and decree dated 13.11.2009 in O.S.No.310 of 2004. The suit was instituted by the appellant/ plaintiff for recovery of money and the said suit was dismissed by the trial court. Challenging the same, the appeal suit on hand is filed.

2. Though, the notice was ordered in the year 2010, till today notice has not been served to the sole respondent. For the past 10 years, the appellant is unable to serve notice to the respondent despite the fact that the suit was contested by the respondent before the trial court. In contested suit and the judgment and decree was passed on merits by the trial court, the appellant is bound to serve notice within a reasonable period of time. However, for the past 10 years, the appellant is unable to serve notice to the respondent.

3. When the matter was listed on 16.12.2019, this court permitted the appellant to take private notice and granted three weeks time. Once again, the matter was listed on 06.01.2020. Even on that day, the appellant reported that the appellant has not served any notice to the respondent. Again the matter was taken up for hearing on 13.01.2020. Today also the learned counsel is unable to establish that the notice has been served to the respondent. This court is of the considered opinion that no purpose will be served by keeping the appeal pending for unspecified period. The appellant is not vigilant in taking

steps to serve notice to the respondent for about 10 years. In these circumstances, if the appellant is able to serve notice within a reasonable period of time and if restoration petition is filed within a reasonable period, then the same shall be considered on merits.

4. With this liberty, this Appeal Suit stands dismissed. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

dsa
To

The Additional District Judge,
Fast Track Court, Namakkal.

Copy to

The Section officer/Record Keeper
VR Section, High Court, Madras 104.

A.S.No.317 of 2010

NRJK (CO)
SP(17/07/2020)