

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.07.2020

CORAM

THE HON'BLE MR.JUSTICE P.VELMURUGAN

CRP.No. 489 of 2010

1.Ponnumalai
2.Muthupaiya
3.Balagounder

..Petitioner

Vs

1.Kandasamy
2.Lakshmi

..Respondents

Prayer : Civil Revision Petition is filed under Section 115 of CPC against the order dated 12.08.2009 in I.A.No. 154 of 2008 in O.S.No. 6 of 2004 on the file of the District Munsif, Sankari.

For Petitioners : Mr.R.Ezhilarasan

For Respondents : No Appearance

ORDER

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The Civil Revision Petition is filed against the Judgment and decretal order dated 12.08.2009 passed in I.A.No. 154 of 2008 in O.S.No. 6 of 2004

by the District Munsif, Sankari.

2. The petitioners herein have filed a suit in O.S.No. 6 of 2004 on the file of the District Munsif, Sankari against the respondents herein for permanent injunction restraining the respondents/defendants and their men, servants, agents from in any way and in any manner interfering with the plaintiffs' peaceful possession and enjoyment over the suit property. Subsequently, the said suit was set exparte and exparte decree was passed against the defendants on 22.10.2007. The defendants/respondents herein have file an application in I.A.No. 154 of 2008 under Order 9 Rule 13 CPC to set aside the exparte decree and the same was allowed by the trial Court by order dated 12.08.2009. Challenging the same, the petitioners/plaintiffs have preferred this Civil Revision Petition.

3. The learned counsel for the petitioners submitted that the respondents have not adduced any evidence to prove the reason for their non appearance. The learned counsel for the petitioner further submitted that the Court below without analysing the reasons stated in the affidavit, has allowed

the same. Therefore, the said order of the Court below is liable to be set aside.

4. Heard the learned counsel for the petitioners. Though notice served and the name is printed in the cause list, none appeared on behalf of the respondents.

5. Admittedly, the petitioners herein have filed a suit in O.S. No. 6 of 2004 on the file of District Munsif, Sankari and the said suit was decreed exparte on 22.10.2007. The respondents have filed an application in I.A.No. 154 of 2008 under Order 9 Rule 13 CPC to set aside the exparte decree. It is seen that the said application was filed by the respondents on time i.e within 30 days from the date of decree. Therefore, the trial Court by considering the reasons stated by the respondents for their non appearance, had allowed the said application with costs of Rs.300/-.

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6. Considering the facts and circumstances of the case and considering the fact that the trial Court had allowed the said application filed by the

respondents after considering the reasons stated by them in the affidavit, this Court does not find any perverse in the order passed by the trial Court. There is no merits in the present petition and liable to be dismissed.

7. In the result, the present Civil Revision Petition is dismissed. However taking into considering the fact that the suit is pending from the 2004, the trial Court is directed to dispose of the suit in O.S.No. 6 of 2004 within a period of six months from the date of receipt of a copy of this Order. No costs.

22.07.2020

Index : Yes/No
Internet : yes
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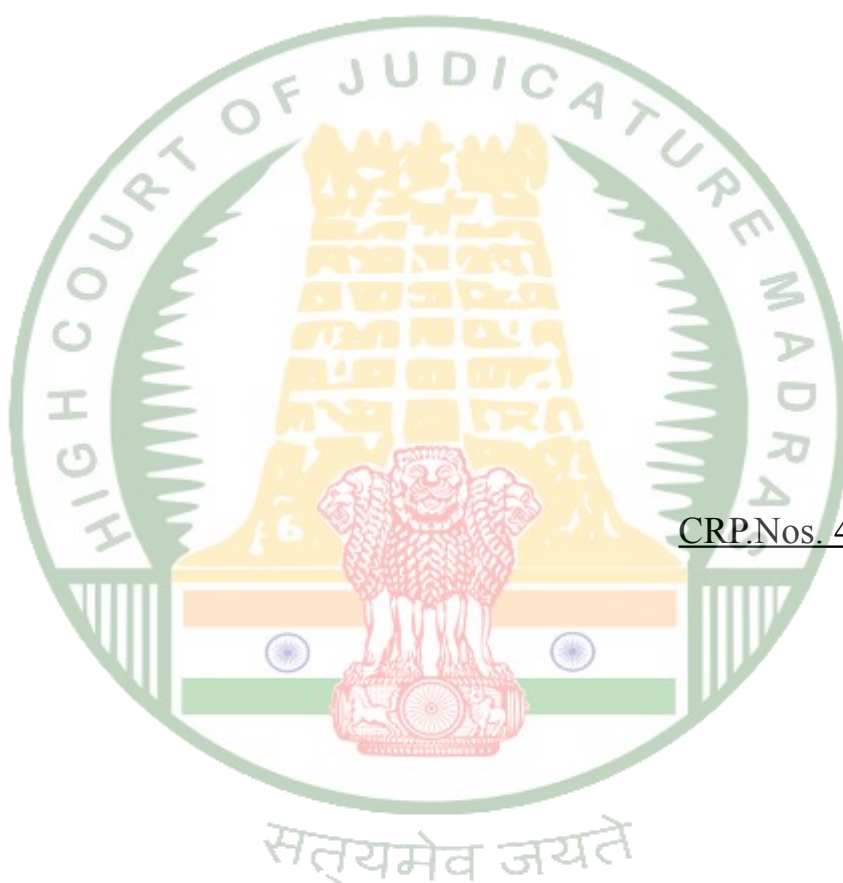
To
The District Munsif,
Sankari.

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P.VELMURUGANM, J.

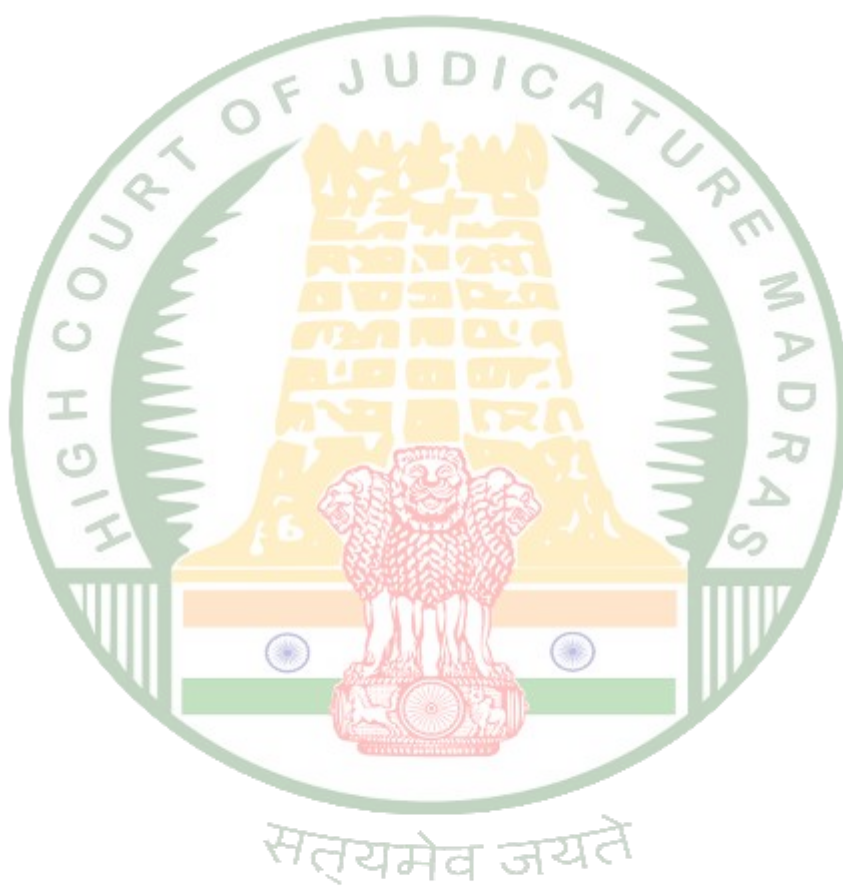
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