

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.01.2020

CORAM

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

C.R.P.(NPD)No.2097 of 2011

and

M.P.No.1 of 2011

Sheikbashaman

... Petitioner

...Versus...

1.Saithan-Be

2.Salima-Be

... Respondents

PRAYER:This Civil Revision Petition has been filed under Section 227 of Constitution of India, against the fair and decretal order dated 20.09.2010 in I.A.No.304 of 2010 in O.S.No.76 of 2007 on the file Principal District Munsif, Gingee.

For Petitioner

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Mr.G.Rajan

For R1 & R3

::

Mr.N.K.Ponraj

For R2

::

Not ready in notice

ORDER

The defendant in the suit is the revision petitioner.

2. The respondent/plaintiff filed a suit for partition and separate possession. In the said suit, the petitioner was set ex-parte, for non-filing of the written statement, dated 13.04.2007 and ex-parte evidence was recorded. Ex-parte decree was passed on 3.11.2008 and the final decree proceedings have been filed. On receipt of the notice of the petitioner in the final decree proceedings, the petitioner/first defendant filed a petition under Order 9 Rule 13 C.P.C on 15.04.2009 alleging that he received the notice in the final decree proceedings and came to know about the absence of the preliminary decree and hence, he filed the petition with a delay of 134 days, to set aside the ex-parte decree and the same was dismissed and hence, this Civil Revision Petition.

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3. The learned counsel for the petitioner would submit that within 13 days, namely on receipt of notice in the final decree proceedings, he has filed this application.

4. The learned counsel for the respondent/plaintiff would submit that the first defendant was ex-parte and the proceedings have passed as early on 13.04.2007 and hence, he knows about the proceedings and be kept quiet and wanted to drag on the proceedings.

5. Perused the records. It is seen from the records that ex-parte decree preliminary decree was passed in the suit for partition on 3.11.2008 and final decree proceedings were filed on 29.01.2009. Now, the present petitioner/first defendant was served notice on 2.4.2009 and on 15.04.2009, he has filed the present I.A.

6. Considering the nature of the suit, namely partition suit and also the delay, I am inclined to allow this revision on payment of costs of Rs.1000/- to the respondents counsel of this Court within a period of two weeks from the date of receipt of a copy of this order. It is stated that written statement has been filed along with the petition to condone the delay and the issues were framed. The trial Court is directed to complete the trial within a period of 12 weeks after this order copy is despatched. Consequently, connected M.P is closed.

30.01.2020

nvi

Index:Yes/No

Internet:Yes/No

Speaking Order:Yes/No

To

The Principal District Munsif, Gingee.

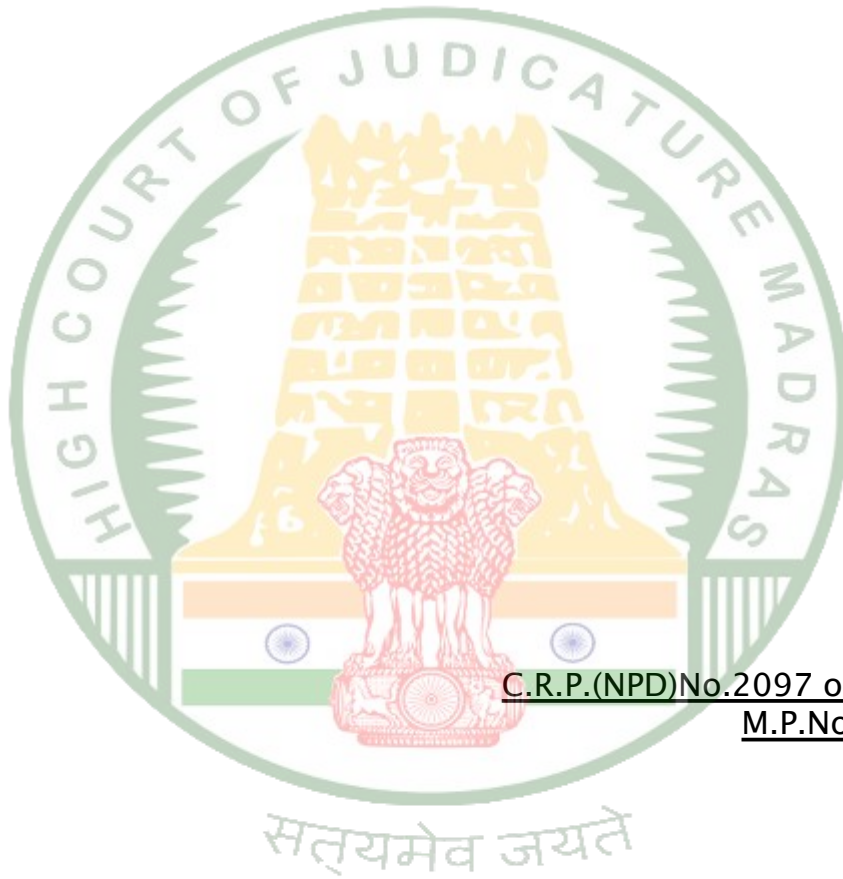


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RMT.TEEKAA RAMAN,J.,

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