



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.07.2021

CORAM

THE HON'BLE MR. JUSTICE C.V.KARTHIKEYAN

C.R.P.(PD) NO.51 OF 2021

AND

C.M.P.NO.329 OF 2021

Seshadri Vijayaraghavan

... Petitioner / Defendant / Petitioner

Vs

Radha Rajagopalan

... Respondent / Plaintiff / Respondent

Civil Revision Petition filed under Article 227 of Constitution of India to set aside the fair and decretal order dated 09.11.2020 in I.A.No.39 of 2020 in O.S.No.419 of 2009 on the file of the Sub Court, Tambaram.

For Petitioner .. Mr.R.Subramanian

For Respondent .. Mr.M.Arun Kumar

ORDER

The defendant in O.S.No.419 of 2009 which is now pending before the Subordinate Court, Tambaram is the revision petitioner herein. The said defendant filed I.A.No.39 of 2020 under order XVII Rule 1 of CPC to adjourn the matter by about ten weeks to enable the the defendant to proceed with the trial of the case.

2.The main reason why he filed such application was that he had been a resident of New Jersey, USA for more than 7 years and he has employed and living there with his family. At that particular point of time since when the affidavit was filed in October 2020, it was not possible for him to come to India to tender evidence.

3.The learned Subordinate Judge however passed an order which is questioned in this Revision Petition directing the petitioner / defendant to appear within a period of two weeks and produce evidence.



4.Mr.R.Subramanian, learned counsel for the revision petitioner expressed grievance over the said order stating that the order can never be practically put into effect since the petitioner was caught up in USA and during the period when the order was passed there was also a closure of all activities owing to general lock down and it was impossible for the petitioner to come to India.

5.I am informed that the suit has since been transferred to the Sub Court Alandur, but not taken on file. Let the learned Subordinate Judge, Alandur, after the suit is re-numbered have a fresh look at the said matter and take a considered decision with respect to the further recording of evidence.

6.In view of these facts, the order under Revision is set aside. Accordingly, the Revision Petition is allowed with a direction to the learned Subordinate Judge, Alandur, to without any unnecessary delay, and following due procedure, re-number O.S.No.419 of 2009 and proceed in manner known to law. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

7.It is hoped that the learned Subordinate Judge, Alandur, would realize that the suit is now pending for about 11 years and therefore, bestow some attention in directing the officials to re-number the suit and place it before his board for further progress.

Sd/-
Assistant Registrar(L.A)

// True Copy//

Sub Assistant Registrar

smv

To

1. The Sub Court, Alandur.
2. The Sub Court, Tambaram.

+1cc to Mr.R.Subramanian , Advocate, SR.No.32904

+1cc to M/s.Sampathkumar & Associates, Advocate, SR.No.33056

C.R.P.(PD) No.51 of 2021

CP(CO)
RLP(02/08/2021)