

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.04.2021

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CRP.PD.No.1724 of 2018 and
CMP.No.9497 of 2018

Saradha @ Rasu

..Petitioner

Periyasamy

Vs.

..Respondent

PRAYER:

The Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decretal order dated 04.04.2018 made in IA.No.106 of 2018 in OS.No.182 of 2008 on the file of the Sub Court, Rasipuram.

For Petitioner : Mr.P.Veena Suresh

For Respondent : M/s.Kavitha
for Mr.S.Sithirai Anandam

ORDER

This Civil Revision Petition is filed against the fair and decretal order dated 04.04.2018 made in IA.No.106 of 2018 in

OS.No.182 of 2008 on the file of the Sub Court, Rasipuram, thereby dismissing the petition to set aside the exparte order.

2. The petitioner is the third defendant and the respondent is the plaintiff. The respondent filed suit for partition. While being so, the petitioner did not file his written statement and he was absent on 25.08.2008 before the trial court. Therefore, the trial court set her exparte. After period of 10 years, the petitioner filed petition to set aside the exparte order. In fact, the defendants 2 and 5 also filed petition to set aside the exparte order and the same was allowed by the trial court. Whereas, the petition filed by the petitioner was dismissed on the ground that the petitioner failed to state any sufficient reason in the affidavit filed in support of the condone delay petition. However, now the suit is pending at the stage of plaintiff's witness. Therefore, the petitioner may be given one more opportunity to defend the suit filed by the respondent.

3. In view of the above discussion, this civil revision petition is allowed and the order dated 04.04.2018 made in IA.No.106 of 2018 in OS.No.182 of 2008 on the file of the Sub Court, Rasipuram is hereby set aside on condition that the petitioner shall pay a sum of Rs.5,000/- (Rupees Five Thousand only) to the respondent directly

within a period of two weeks from the date of receipt of copy of this order, failing which the order passed by the Court shall stand automatically cancelled. Consequently, connected miscellaneous petition is closed. No order as to costs.

30.04.2021

Speaking/Non-speaking order
Index : Yes/No
Internet : Yes/No
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G.K.ILANTHIRAIYAN,J.

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To

The Subordinate Judge,
Rasipuram



CRP.PD.No.1724 of 2018

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