



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.09.2021

CORAM :

THE HONOURABLE MRS.JUSTICE S.ANANTHI

C.R.P. (MD) .No.722 of 2021

and

C.M.P. (MD)No.3922 of 2021

WEB COPY

1.Andal
2.Sailappan
3.Ponnammal
4.Murugan
5.Kalyani
6.Hari
7.Kaveri
8.Ashok Rajan

...Petitioners/Petitioners/Defendants

Vs.

Ponmani

...Respondent/Petitioner/Plaintiff

PRAYER: Civil Revision Petition filed under Section 115 of Civil Procedure Code, to set aside the fair and decreetal order dated 27.07.2020 passed in I.A.No.1 of 2019 in O.S.No.6 of 2003 on the file of the District Munsif Court, Nanguneri, Tirunelveli District, and allow the present Civil Revision Petition.

For Petitioners : Mr.R.J.Karthick

For Respondent : Mr.V.Meenachi Sundaram

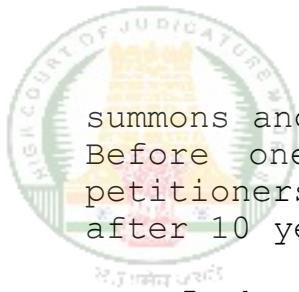
O R D E R

This Civil Revision Petition has been filed to set aside the fair and decreetal order, dated 27.07.2020 in I.A.No.1 of 2019 in O.S.No.6 of 2003, passed by the learned District Munsif, Nanguneri, Tirunelveli District.

2.Heard the learned counsel appearing for the petitioners and the learned counsel appearing for the respondent.

3.The respondent herein/plaintiff has filed a suit in O.S.No.6 of 2003 on the file of the District Munsif Court, Nanguneri, Tirunelveli District, against the revision petitioners herein for declaration and permanent injunction and an exparte order was passed in the said suit.

4.Against the exparte decree, an appeal in A.S.No.157 of 2006 was filed and in the said appeal, O.S.No.6 of 2003 was remanded back to the trial Court on 19.12.2008. The trial Court has also issued



summons and the same was served to the revision petitioners' father. Before one month from the date of remand order, the revision petitioners' father was died. Notice was returned on 31.08.2018 after 10 years.

5. Thereafter, the revision petitioners herein have filed a interlocutory petition in I.A.No.1 of 2019 in O.S.No.6 of 2003 under Section 5 of Limitation Act, for condoning the delay of 100 days in filing the petition and the same was dismissed on 27.07.2020 by the learned District Munsif, Nanguneri. Against the said order, the revision petitioners are before this Court.

6. It is seen from the records that the revision petitioners have filed a petition in I.A.No.1 of 2019 to condone the delay of 100 days to set aside the exparte decree. Already the suit in O.S.No.6 of 2003 was remanded back to the District Munsif Court, Nanguneri, for trial. In the said suit P.W1 was examined in chief and the same was posted for cross examination on the side of the defendants. At this stage, the exparte decree was passed. The suit was filed for partition and permanent injunction and hence, this Court is inclined to give an opportunity to the defendants for cross examination of PW.1.

7. In view of the foregoing reasons, this Civil Revision Petition is allowed by setting aside the fair and decreetal order, dated 27.07.2020 passed by the learned District Munsif, Nanguneri, Tirunelveli District in I.A.No.1 of 2019 in O.S.No.6 of 2003. The learned District Munsif, Nanguneri, Tirunelveli District, is directed to proceed the case from cross-examination of P.W.1. Since the case is of the year 2003, the trial Court is directed to dispose of the suit in O.S.No.6 of 2003, within a period of three months from the date of receipt of a copy of the order. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

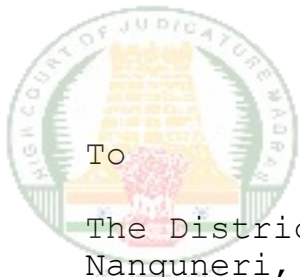
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/ /2021

Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.



To

The District Munsif Court,
Nanguneri,
Tirunelveli District.

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+1 CC to M/s.D.NALLATHAMBI, Advocate (SR-29920[F] dated
22/09/2021)

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RK (28.09.2021) 3P 3C