



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

C.R.P. (MD) No.735 of 2020

and

C.M.P. (MD) No.4916 of 2020

P.Easakki Muthu : Petitioner/ Petitioner / 2nd Defendant

Vs.

P.Arunachalam : Respondent/Respondent/Plaintiff

PRAYER: Civil Revision Petition has been filed under Article 227 of Constitution of India, against the fair and decreetal order dated 13.02.2020 passed in I.A.No.1 of 2019 in O.S.No.15 of 2019, on the file of the Additional District Munsif cum Judicial Magistrate Court, Sivagiri.

For Petitioner : Mr.F.X.Eugene

For Respondent : Mr.V.Sasikumar

ORDER

The Civil Revision Petition is directed against the order passed in I.A.No.1 of 2019 in O.S.No.15 of 2019, dismissing the petition filed under Order 9 Rule 7 CPC.

2.It is not in dispute that the revision petitioner, who is the second defendant was set ex-parte on 20.07.2009 for non filing of the written statement. Thereafter, he has filed an application under Order 9 Rule 7 CPC, on 16.07.2019 along with the written statement. The learned Munsif, by wrongly holding that the Article 137 of Limitation Act is applicable, dismissed the application.

3.It is not in dispute that the suit is pending and the first defendant has been contesting the suit till now. The main objection of the respondent is that the revision petitioner has previously filed an application under Order 9 Rule 7 along with written statement dated 24.06.2009 and the same is very much available in the case bundle and that they have filed another written statement raising contra pleas to the earlier written statement.

4.It is evident from the records that the ex-parte order passed against the revision petitioner has not been set aside till now and there is no order for receiving or recording the written statement filed earlier.



5. Considering the above facts and circumstances of this case, this Court is of the view that the ex-parte order is to be set aside and the petitioner is to be given an opportunity to contest the suit, but, at the same time, considering the length of delay and the stage at which the above petition came to be filed, this Court is also of the view that the petitioner must be mulcted with costs.

6. Accordingly, the revision petition is allowed on payment of cost of Rs.5,000/- (Rupees Five Thousand Only) to the respondent on or before 02.06.2021, failing which, the revision shall stand dismissed. Since the suit is pending from the year 2009, the learned trial Judge is directed to dispose of the suit within a period of four months from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

das
To

1.The Additional District Munsif cum
Judicial Magistrate Court, Sivagiri.

Copy to

1.The Registrar Judicial
Madurai Bench of Madras High Court, Madurai.

2.The Section Officer, (Judicial Section)
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.V.SASI KUMAR, Advocate (SR-17005[F] dated 22/04/2021)

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