

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.02.2021

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P. (MD) No.22 of 2021

1. Ramdoss
2. Manjula Ramdoss ... Petitioners/ Petitioners/
Defendants 1 & 2

-Vs-

Raju ...Respondent/Respondent/
Plaintiff

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, to direct the learned Subordinate Judge, Thirumangalam, to dispose the set aside application I.A.No.30 of 2009 in O.S.No.305 of 2017 on its file, expeditiously and allow this Civil Revision Petition.

For Petitioner : Mr.S.Srinivasa Raghavan

ORDER

This Civil Revision Petition has been filed seeking a direction to the learned Subordinate Judge, Thirumangalam, to dispose of the case in I.A.No.30 of 2009 in O.S.No.305 of 2017, on the file of the Subordinate

Court, Thirumangalam, within the time stipulated by this Court.

2. The civil revision petitioners are the defendants 1 and 2 and the respondent is the plaintiff in the suit in O.S.No.305 of 2017.

3. The learned counsel for the revision petitioner would submit that the respondent/plaintiff has filed a suit in O.S.No.228 of 2002 on the file of the III-Additional Subordinate Court, Madurai, for specific performance of sale agreement dated 12.06.2000 executed by the Power of Attorney of the revision petitioners. The revision petitioners herein appointed and nominated one Mr.Nagoor Kani, as Power of Attorney. The said power of attorney colluded with the respondent/plaintiff and paved way for an ex-parte decree of the said suit on 22.04.2002 without contesting the suit either by appearing nor by filing written statement. The revision petitioners filed an application in I.A.No.30 of 2009 to set aside the ex-parte decree in O.S.No.228 of 2002 and the Court below allowed the same. Aggrieved over the same, the respondent/plaintiff filed a Civil Revision Petition in CRP(MD).No.1831 of 2015 before this Court and this Court, allowed the revision petition by order dated 26.11.2018 with a direction to the revision petitioners herein to file a delay

application under Section 5 of Limitation Act to condone the delay in setting aside the ex-parte decree. Subsequently, the suit was re-numbered as O.S.No.305 of 2017, on the file of the Subordinate Court, Thirumangalam. Thereafter the revision petitioner has filed a delay application in I.A.No.32 of 2019, on the file of the Subordinate Court, Thirumangalam and the Court below allowed the application. Against the same, the respondent/plaintiff again filed a civil revision petition in CRP(MD).No.1211 of 2019 and the same was dismissed as default on 16.09.2020.

4. The grievance of the petitioner is that, since the CRP(MD).No. 1211 of 2019 was dismissed as default, the lower Court ought to restore the I.A.No.30 of 2009 either in the original number or by assigning a new number and to proceed further in terms of the order of this Court dated 26.11.2018. But the Trial Court citing Covid-19 pandemic, adjourning the matter without referring the above facts. Hence, the petitioner is constrained to move the present revision petition before this Court for getting speedy disposal of the application in I.A.No.30 of 2009 in O.S.No.305 of 2017.

5. Since this Civil Revision Petition is filed for early disposal of the application and as no adverse order is going to be passed, no notice is necessary to the respondent herein.

6. Considering the facts and circumstances of the case, this Court feels that ends of justice would be met by directing the Court below to dispose of the interlocutory application within a time frame. Accordingly, without advertent to the merits of the case, a direction is issued to the learned Subordinate Judge, Thirumangalam, to dispose of the application in I.A.No.30 of 2009 in O.S.No.305 of 2017, on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order.

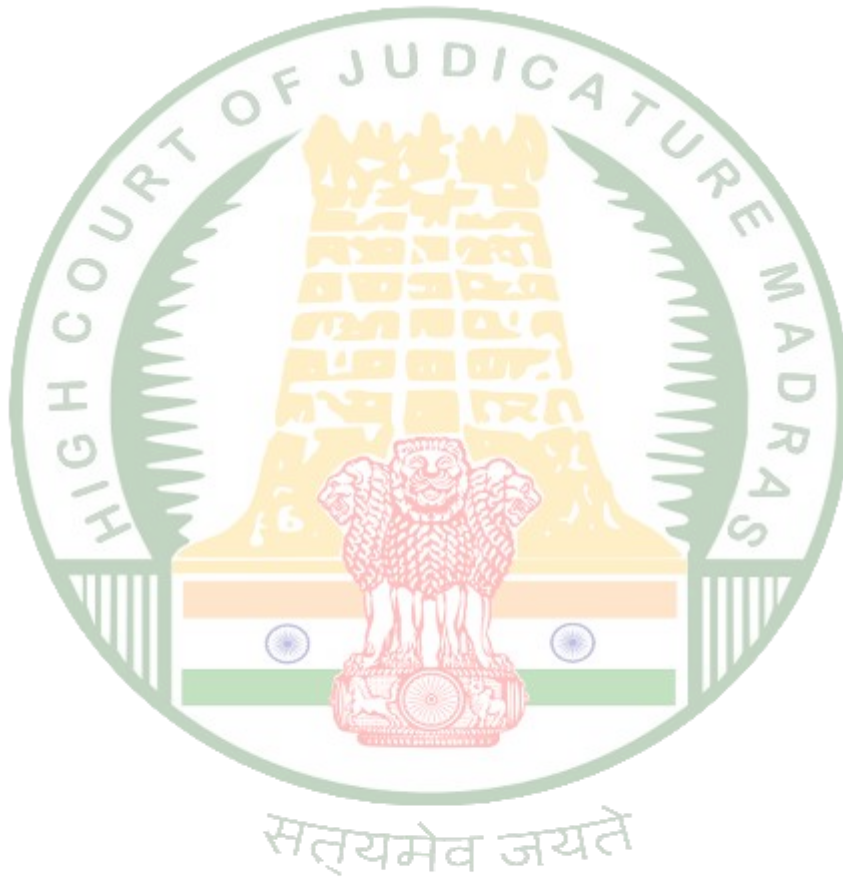
7. With the above direction, this Civil Revision Petition is disposed of. No costs.

09.02.2021

Internet : Yes / No
Index : Yes / No
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To

1. The Subordinate Court,
Thirumangalam.
2. The Section Officer,
VR Section,
Madurai Bench of Madras High Court, Madurai.



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J.NISHA BANU,J

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