



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.07.2021

CORAM :

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

CRP(NPD) (MD)No.1569 of 2014

and

M.P(MD)No.1 of 2014

Nagammal

... Petitioner/Petitioner/Defendant

vs.

1.R.Manickavalli

2.R.Muneeswaran

... Respondents/Respondents/Plaintiffs

PRAYER: This Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the order and decreetal order dated 27.03.2014 passed in I.A.No.813 of 2011 in O.S.No.244 of 2011 on the file of the learned Additional District Munsif, Madurai Town and allow the Civil Revision Petition.

For Petitioner : Mr.R.Devaraj

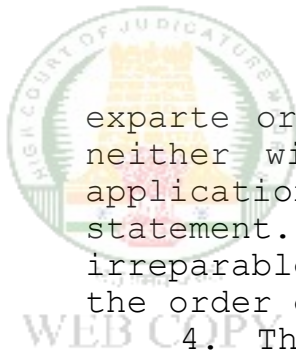
For Respondents : Mr.T.Joseph Jeyakumar

ORDER

This Civil Revision Petition has been filed to set aside the order and decreetal order dated 27.03.2014 passed in I.A.No.813 of 2011 in O.S.No.244 of 2011 on the file of the learned Additional District Munsif, Madurai Town.

2.The petitioner is the defendant and the respondents are the plaintiffs in O.S.No.244 of 2011. The suit was filed for permanent injunction. In the suit, the petitioner was called absent on 02.08.2011 and therefore, an exparte decree was passed. The defendant filed an application to set aside the exparte decree in I.A.No.813 of 2011 in O.S.No.244 of 2011. By order dated 27.03.2014, the Trial Court dismissed the petition. Challenging the dismissal order, this revision petition has been filed.

3. The learned counsel for the petitioner submitted that the Court should be liberal while deciding the petition to set aside exparte decree. Further, the learned counsel submits that the petitioner has not received any intimation about either the date of hearing or date of requirement of her presence from her previous Advocate and when she contacted him on 13.09.2011, he told that



exparte order was passed on 02.08.2011 against her and the same is neither wilful nor wanton. Thereafter, the petitioner filed the application to set aside the exparte order in time with her written statement. Unless the petition is allowed, she will be put into irreparable loss and hardship and hence, he prays for setting aside the order dismissing in I.A.No.813 of 2011.

4. The learned counsel appearing for the respondents would submit that this petition may be allowed on terms.

5. This Court has perused the materials available on record and also considered the submissions made by both counsel.

6. Considering the overall facts and circumstances of the case and also considering the submission made by the learned counsel for the respondents, this Court is inclined to allow this revision, on payment of costs. The petitioner shall pay Rs.1000/- (Rupees one thousand only) to the respondents, within a period of two weeks from the date of receipt of a copy of this order, failing which, this revision shall stand dismissed. Accordingly, the order passed in I.A.No.813 of 2011 in O.S.No.244 of 2011 on the file of the Additional District Munsif, Madurai Town is set aside.

7. In fine, this Civil Revision Petition is allowed on the above terms. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

msa/cp

To

1.The Additional District Munsif
Madurai Town

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

+1 CC to M/s R.Devaraj, Advocate in SR. NO. 23995

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MGJ(03.08.2021) 2P 5C