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C.R.P.(PD) No.1609/20__

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **08.06.2022**

CORAM

THE HONOURABLE Ms. JUSTICE R.N.MANJULA

C.R.P.(PD)No. 1609 of 2022

and

CMP.No.8066 of 2022

S.Nagarajan

...

Revision Petitioner

Vs.

S.Chandran

...

Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the erroneous and perverse Fair and Decreetal Order dated 15.11.2021 passed by the learned XXIst Additional Judge, City Civil Court, Alikulam at Chennai, allowing IA.No.01/2021 in OS.No.3777/2019.

For Petitioner : Mr.M.A.Srinivasan

For Respondent : M/S.P.T.Ramkumar



ORDER

This Civil Revision Petition has been preferred challenging the order of the learned XXIst Additional Judge, City Civil Court, Chennai at Allikulam, dated 15.11.2021 made in I.A.No.01/2021 in OS.No.3777/2019.

2. The revision petitioner is the plaintiff in the suit.

3. The respondent/defendant has filed an application in I.A.No.01/2021 to set aside the *ex parte* preliminary Decree dated 09.04.2021 and the same was allowed. Aggrieved over that, the revision petitioner has preferred this revision petition.

4. The learned counsel for the revision petitioner submitted that the learned Trial Judge while passing the order in I.A.No.01/2021, has gone beyond the scope of the petition and discussed about the merits of the pleadings made by the defendant in his written statement.

5. Though it is not wrong on the part of the learned trial Judge to allow the petition by setting aside the *exparte* preliminary decree in the interest of justice and allow the parties to contest the suit, it is not correct to



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take into consideration of the pleadings of the either party at the time of considering the petition filed under Order 9 Rule 13 of Civil Procedure Code. The merits and demerits of the pleadings of the respective parties can be considered only after allowing them to depose evidence and place other relevant materials before the Court at the time of trial. Even though the learned trial Judge has made some discussion and observations about the pleadings in the written statement, he is duty bound not to get influenced by the same.

6. These observations are sufficient to correct the eradicate approach made by the learned Trial Judge while appreciating the petition filed under Order 9 Rule 13 of Civil Procedure Code. However the result of allowing the petition need not be disturbed in order to avoid causing further delay for the suit proceedings.

With these observations this Civil Revision Petition is disposed. No costs. Connected Civil Miscellaneous Petition is closed. The suit is of the year 2016. Considering the long pendency of the suit, the learned trial Judge is directed to dispose of the suit as expeditiously as possible without being



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influenced by any of his discussion about the pleadings made in the petition.

However, the learned Trial Judge is at liberty to make an independent appreciation of the same being on the materials available during trial.

08.06.2022

Index : Yes/No
Speaking Order : Yes / No
jrs



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To

1. The XXIst Additional Judge,
City Civil Court, Alikulam at Chennai

2. The Section Officer,
VR Section, Madras High Court,
Chennai.



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R.N.MANJULA, J.,

jrs

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