



WEB COPY



CRP.(PD).No.2330 of 2019
& C.M.P.No.15193 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.12.2022

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRP.(PD).No.2330 of 2019
& C.M.P.Nos.15193 of 2019

Kandhasami,

... Petitioner

Vs.

1. Devaki,
2. Thilaga,
3. Ramani,
4. Amulu,
5. Bommi,

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order and decree dated 04.04.2019, made in I.A.No.329 of 2015 in O.S.No.113 of 2012, on the file of District Munsif Court, Sholinghur, by allowing the present Civil Revision Petition.

For Petitioner : Mr.A.Gouthaman

For Respondents : Mr.L.Christopher



CRP.(PD).No.2330 of 2019
& C.M.P.No.15193 of 2019

ORDER

WEB COPY

This Civil Revision Petition has been filed to set aside the order and decree dated 04.04.2019, made in I.A.No.329 of 2015 in O.S.No.113 of 2012, on the file of District Munsif Court, Sholinghur,

2. The petitioner is the plaintiffs and the respondents are the defendants. The defendants filed suit for partition. In the suit, after receipt of the summons, the respondents failed to appear before the trial Court. Therefore, they were set *exparte* and *exparte* preliminary decree was passed in the suit for partition. On the strength of the partition, the respondents filed a petition for final decree. In the final decree application, Advocate Commissioner was appointed and the respondents filed a petition to set aside the *exparte* decree of 278 days in filing the petition to set aside the *exparte* decree which was allowed in the suit.

3. The only ground raised by the petitioner is that the respondents already entered appearance in the final decree application through Advocate and sought time to file counter. On so many occasions, they were granted time to file counter, even then, they did not file any counter and as such, the final



CRP.(PD).No.2330 of 2019
& C.M.P.No.15193 of 2019

decree application was also allowed. However, the Court below allowed the petition only on condition that the respondents shall pay a sum of Rs.3,000/- as costs. The petitioner has spent more than Rs.10,000/- for Advocate Commissioner as remuneration.

4. Considering the above facts and circumstances of the case, the respondents are directed to pay a sum of Rs.5,000/- as costs to the petitioner directly on or before 09.01.2023. Failing which, the order passed in I.A.No.329 of 2015 dated 04.04.2019 is hereby set aside.

5. With the above direction, the Civil Revision Petition is disposed of. Consequently, connected Miscellaneous Petition is closed. No costs.

19.12.2022

Internet : Yes / No
Index : Yes / No
Speaking Order / Non Speaking order
bsm
To,
1. The District Munsif Court, Sholinghur.



WEB COPY



CRP.(PD).No.2330 of 2019
& C.M.P.No.15193 of 2019

G.K.ILANTHIRAIYAN, J.

CRP.(PD).No.2330 of 2019
& C.M.P.Nos.15193 of 2019

19.12.2022