



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2022

Coram

The Hon'ble Mr. Justice **C.V.KARTHIKEYAN**

C.R.P.NPD.No.1106 of 2017

Thavamani ... Petitioner/Defendant/Petitioner

Vs

Devaki Ammal ... Respondent/Plaintiff/Respondent

Civil Revision Petition filed under Section 115 of CPC, to set aside the fair and decreetal order dated 18.10.2016 in I.A.No.102 of 2014 in O.S.No.173 of 2009 on the file of the Principal Sub Court, Tiruvannamalai.

For Petitioner .. Mr.K.Govi Ganesan

For Respondent .. Mr.V.Manisekaran

ORDER

The defendant in O.S.No.173 of 2009 is the revision petitioner herein. The said suit is now pending on the file of the Principal Sub Court at Tiruvannamalai.



2. The revision petitioner had not been attending judicial proceedings prudently. It is informed that originally the suit which had been filed for specific performance had been decreed ex-parte and thereafter, an application was filed to condone the delay in setting aside the ex-parte decree and that delay was about 170 days. The same was condoned and the respondent / plaintiff grazed the witness box and was also examined in chief and documents were marked. Again the revision petitioner / defendant chose not to appear before the Court and again an ex-parte decree was passed and thereafter an application was filed to condone the delay of 54 days in setting aside the ex-parte decree. That delay, was refused to be condoned necessitating the filing of the present Civil Revision Petition.

3. The present Civil Revision Petition itself has now been pending for the past four years. In larger interest, the trial Court should have put the parties to terms or fixed a schedule for conducting the trial. Now, by way of the present Civil Revision Petition, the suit has been put off for another four years. It is seen that now the suit is pending for the past 12 years. Let me not keep both the parties in a state of oblivion regarding the final result of the suit. The Civil Revision Petition is allowed. However, the following directions are issued.



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(i)The application to condone the delay of 54 days in setting aside the ex-parte decree dated 28.06.2012 in O.S.No.173 of 2009 namely, I.A.No.102 of 2014 is allowed.

(ii)Consequential application to set aside the ex-parte decree should be taken up by the learned Principal Sub Judge, Tiruvannamalai and necessary orders should be passed in the said application on or before 11.03.2022.

(iii)The defendant is thereafter directed to cross-examine PW-1 and if any further evidence is adduced on behalf of the plaintiff, the evidence on the side of the plaintiff must be completed by 04.04.2022.

(iv)The learned Principal Sub Judge must fix a schedule, posting the suit for trial on every successive day and even if that is not possible, ensure that not more than three working days are given in between any two adjournments.

(v)If the defendant wants to let in evidence, then the defendant's evidence should be completed on or before 18.04.2022.

(vi)The judgment in the suit should be delivered by 29.04.2022.



4. With the above directions, the present Civil Revision Petition is allowed. No order as to costs. If the defendant protracts and does not co-operate in keeping to the above direction, then the learned Principal Sub Judge, Tiruvannamalai is at liberty to pass necessary orders.

21.02.2022

Internet: Yes/No

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To

The Principal Sub Court, Tiruvannamalai.



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C.V.KARTHIKEYAN, J.

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