



WEB COPY



CRP.No.1681 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.09.2023

CORAM:

THE HONOURABLE Mr. JUSTICE V.LAKSHMINARAYANAN

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- 1.J.Selvamani
- 2.A.James
- 3.J.Stalin Sampathkumar
- 4.J.Santhi Premkumar
- 5.J.Chandrasekaran
- 6.R.Seema Priyadarshini
- 7.R.Arun Prasath
- 8.G.S.Sheela Thangam
- 9.S.Rajesh Dhinakar
- 10.S.Raagul Dhivakar

(petitioners 6 to 10 impleaded as party petitioners
vide order of this Court dated 14.09.2023 made in
C.M.P.Nos.8510 & 8513 of 2022)

... Petitioners

Vs

S.Selvi

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair and decretal order, dated 20.03.2015, made in I.A.No.23 of 2015 in O.S.No.298 of 2009 on the file of the learned Sub Judge, Perundurai.



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For Petitioners : Mr.N.Manoharan

For Respondent : Mr.K.S.Jayaganeshan

ORDER

The original papers were misplaced by the Court and Mr.N.Manokaran, learned counsel for the petitioners has re-constructed the same. The revision is heard on the reconstructed papers.

2. O.S.No.298 of 2009 is a suit for declaration and permanent injunction. The said suit was posted on 15.07.2014 for cross examination of PW1. On that date, the Civil Revision Petitioner could not contact their counsel and therefore, they were set ex-parte. Soon thereafter, the suit had been posted for arguments. At that stage, an application was taken out to set aside the ex-parte order under Order 9 Rule 7 of Civil Procedure Code. This application was resisted by the respondent on the ground this is the second time that the petitioners were remaining ex-parte. The petitioners were already set ex-parte and the ex-parte order was set aside on 12.11.2013 and yet again on 15.07.2014. The Court below allowed the application on condition that the petitioners shall deposit a sum of Rs.50,000/- (Rupees Fifty Thousand only). The reason is obvious from the order because PW1 has been in the witness box from 2011 and effectively from the year 2015, the



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petitioners have not cross examined PW1. Therefore, in order to impose a condition, the Court below had directed the petitioners to deposit a sum of Rs.50,000/- (Rupees Fifty Thousand only).

3. Challenging the same, the present Civil Revision Petition has been filed.

4. I do not find anything wrong in the order of the learned Judge on insisting the parties to deposit the amount, so that, some progress will be shown in the suit. At the same time, Rs.50,000/- (Rupees fifty thousand only) for allowing the application under Order 9 Rule 7 CPC seems onerous.

5. Therefore, while confirming the reasons given by the learned Judge, I only modify the condition from Rs.50,000/- (Rupees Fifty Thousand only) to Rs.30,000/- (Rupees Thirty Thousand only) of which Rs.5,000/- (Rupees Five Thousand only) as costs to the plaintiff. The remaining amount of Rs.25,000/- (Rupees Twenty Five Thousand only) shall be kept in deposit and it shall be disbursed on the basis of the result in the suit. The petitioners shall deposit the amount within a period of four weeks from the date of receipt of a copy of this order.



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V.LAKSHMINARAYANAN,J.,

vkrr

6. With the above modification, the Civil Revision Petition stands partly allowed. No costs.

14.09.2023

Index:Yes/No
Speaking order/Non-speaking order
vkrr

To
The Sub Judge, Perundurai.

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