



CRP No.796 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED : 22.11.2023

CORAM :

THE HONOURABLE MRS. JUSTICE T.V. THAMILSELVI

C.R.P.No.796 of 2023

and

CMP.No.6083 of 2023

R.Amutha

...

Petitioner

/vs/

1.Elumalai

2.K.Anandasagar

3.Subhashree

...

Respondents

PRAYER: Civil Revision Petition has been filed under Article 227 of the Constitution of India to set aside the fair and decreetal order passed by the Principal District Munsif at Alandur in I.A.No.61 of 2017 in I.A.No.549 of 2012 in O.S.No.425 of 2011 dated 28.09.2022.

For Petitioner ... Mr.M.Jaikumar

For Respondents ... Mr.S.Hariharan

ORDER

Challenging the impugned order dated 28.09.2022 passed in I.A.No.61 of 2017 in I.A.No.549 of 2012 in O.S.No.425 of 2011 by the Principal District Munsif at Alandur, the present civil revision petition has been filed.



CRP No.796 of 2023

WEB COPY

2.Before the trial Court, the petitioner has filed an application in I.A.No.549 of 2012 to implead the proposed respondents as defendants 2 & 3 in the suit in O.S.No.425 of 2011. When the matter was posted for enquiry on 10.08.2016, the petitioner did not appear before the trial Court, hence, the trial Judge dismissed the matter for default on 10.08.2016 due to non prosecution. To restore the same, she filed a petition in I.A.No.61 of 2017 under Order 9 Rule 7 r/w Section 151 CPC, that application was contested by the proposed respondents. On considering both the submissions, the trial Judge dismissed the petition on 28.09.2022 stating that originally the suit in O.S.No.425 of 2011 was filed in the year 2011 against the first defendant for Permanent Injunction and the same is pending for more than 10 years without any progress. Aggrieved against the same, the present civil revision petition has been filed.

3.The learned counsel appearing for the petitioner submitted that the petitioner filed an application to implead the proposed respondents as defendants 2 & 3 and the matter was adjourned along with trial and finally, it was dismissed as non prosecution. To restore the same, the petitioner filed a restoration petition in I.A.No.61 of 2017 that was also dismissed.



CRP No.796 of 2023

4. On perusal of the records, it is seen that the proposed respondents/defendants 2 & 3 have already filed their written statement along with their counter in I.A.No.61 of 2017. Admittedly, the trial had begun and the first defendant was set exparte. Therefore, opportunity should have been given to the proposed respondents to prove all the defence before the trial Court while disposing of the I.A.No.549 of 2012.

5. In view of the above said facts and circumstances of the case, the order dated 28.09.2022 passed in I.A.No.61 / 2017 in I.A.No.549 of 2012 in O.S.No.425 of 2011 on the file of the Principal District Munsif Court, Alandur is hereby set aside and the civil revision petition is allowed with a direction to the trial Judge to dispose the interlocutory application in I.A.No.549 of 2012 within a period of two weeks from the date of receipt of a copy of this order, thereafter, proceed with the trial and dispose the suit in O.S.No.425 of 2011 within a period of four months since the suit is pending from the year 2011. No costs. Consequently, the connected miscellaneous petition is closed.

Index : Yes/No
Internet: Yes/No
sms
To
The Principal District Munsif,
Alandur

22.11.2023



WEB COPY



CRP No.796 of 2023

T.V.THAMILSELVI, J.

sms

C.R.P.No.796 of 2023
and
CMP.No.6083 of 2023

22.11.2023