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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2023

CORAM

THE HON'BLE MRS.JUSTICE T.V.THAMIL SELVI

CRP.No. 2688 of 2022

Seerangammal

... Petitioner

Vs.

Chinnasamy

... Respondent

Prayer : Civil Revision Petition filed under Section 115 of C.P.C praying to set aside with cost the docket order dated 30.06.2022 in I.A.No.7 of 2022 in O.S.No.16 of 2021 on the file of the III Additional District and Sessions Court, Gobichettypalayam.

For Petitioner : Mr.R.Vijayan

For Respondent : Mr. M.Guruprasad

ORDER

The petitioner has filed this petition to set aside the docket order dated 30.06.2022 in I.A.No.7 of 2022 in O.S.No.16 of 2021 on the file of the III Additional District and Sessions Court, Gobichettypalayam.

2. Before the trial Court the defendant has filed an application under Order IX Rule 7 of CPC, to set aside the ex-parte order and the same was allowed by the learned trial Judge. Aggrieved that the revision petitioner / plaintiff has preferred this revision.



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3. The learned counsel appearing for the revision petitioner submitted that after setting aside the ex-parte decree, evidence was recorded and the case is now posted for Judgement. The defendant has no right to file any petition under Order VII Rule 1 of CPC. Instead, he should have filed petition under Order VII Rule 13 of CPC. Even as on date, the suit decree was not passed, therefore the petition filed under Order IX Rule 7 as such is maintainable and there is no irregularity found in the order passed by the learned trial Judge.

4. Accordingly, this Civil Revision petition is dismissed. No costs.

5. Since, the parties on either side are more than 70 years old and the defendant has also filed his written statement, the learned trial Judge is hereby directed to complete the trial within a period of three months from the date of receipt of a copy of this order.

11.12.2023

Index : Yes/No

Speaking order / Non speaking order

Neutral Citation: Yes/No

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To

1. The III Additional District and Sessions Court,
Gobichettypalayam.
2. The Section Officer, VR Section,
High Court of Madras.



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T.V.THAMIL SELVI, J.

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