



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.10.2023

CORAM:

THE HON'BLE MRS. JUSTICE T.V.THAMILSELVIC.R.P.No.3645 of 2023andC.M.P.No.22864 of 2023

1.C.Suseela
2.S.Vinodhini

... Petitioners

-Vs-

1.G.Sivaraj
2.G.Rajthilak

... Respondents

Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to direct the District Munsif Court at Tambaram to reject the I.A.No.1 of 2022 in OS No.46 of 2020.

For Petitioners : Mr.S.Kathiravan

ORDER

The Revision Petitioners herein are the plaintiffs in the suit in O.S.No.46 of 2020 on the file of learned District Munsif, Tambaram. Challenging the impugned order of taking the application filed by the



defendants under Order 9 Rule 7 of C.P.C. in I.A.No.1 of 2022 on file seeking to set aside the exparte order passed against them on 09.04.2021, the present Civil Revision Petition has been filed.

2. Since the relief claim challenging the order passed by trial judge, notice to the respondents is dispensed with.

3. The learned counsel for Revision Petitioners would submit that already the defendants 1 and 2 were remain exparte. The plaintiffs were examined as P.W.1 and P.W.2 and on their side, the documents Ex.A1 to A16 were marked and arguments was also heard. However, when the case was posted for judgment on 13.07.2022, an interlocutory application in I.A.No.1 of 2022 under Order 9 Rule 7 of C.P.C. was filed by the defendants to set aside the exparte order, but the trial judge erroneously taken the application on file, since the case was reserved for judgment. Therefore, challenging the order passed to take the application on file, the present Civil Revision Petition has been filed.

4. Records perused. On perusal of records, it reveals that the defendants were remain exparte and exparte evidence was taken. Thereafter, I.A.No.1 of 2022 under Order 9 Rule 7 of C.P.C. was filed by the defendants to set aside the exparte order and as the case was posted for



judgment on 13.07.2022, so far, no judgment was pronounced. Before that, the defendants filed an application to set aside the exparte order, but so far the exparte decree was not passed. Therefore, the defendant is entitled to file an application to set aside the exparte order and the same was rightly taken on file by the trial court, which needs no interference. Accordingly, this Civil Revision Petition is dismissed and the findings of the trial judge in I.A.No.1 of 2022 in O.S.No.46 of 2020 is confirmed. However, the trial judge is directed to dispose the case as expeditiously as possible. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

09.10.2023

Index : Yes/No
Speaking Order : Yes/No
rpp

To

The District Munsif, Tambaram



WEB COPY



4

CRP.No.3645 of 2023

T.V.THAMILSELVI, J.

rpp

C.R.P.No.3645 of 2023

09.10.2023