



C.R.P.(PD)No.2829 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD)No.2829 of 2019
and C.M.P.No.18525 of 2019

Ramamoorthy

.. Petitioner

Vs.

1.B.Balaraman
2.Shanmugam
3.B.Saravanan
4.B.Manikandan

5.The Sub-Registrar
Kaveripakkam Sub-Registrar Office
Kaveripakkam
Arakkonam Taluk, Vellore District.

.. Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decretal order dated 10.12.2018 in I.A.No.254 of 2018 in O.S.No.476 of 2014 on the file of the Sub Court, Arakkonam.

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For Petitioner : Mr.R.Siddharth
For R1 : Mr. R.Raja Rajan
For R2 to R4 : No appearance
For R5 : Mr.B.Tamilnidhi
Additional Government Pleader (CS)

ORDER

The revision arises against the dismissal of an application filed under Order IX Rule 7 of the Code of Civil Procedure.

2. I have heard both sides and carefully perused the records.

3. The respondent/plaintiff had filed a suit for declaration of title and for permanent injunction. The civil revision petitioner/4th defendant in the suit, filed an application in I.A.No.254 of 2018 under Order IX Rule 7 of C.P.C., to set aside the exparte order dated 28.10.2014. Along with the said application, he had also filed a written statement. The learned Subordinate Judge at Arakkonam dismissed the application on the ground that the reason given by the petitioner is not satisfactory.



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4. There is an ocean of difference between the “sufficient cause” under Section 5 of the Limitation Act and the “reasonable cause” under Order IX Rule 7 of C.P.C. In so far as Order IX Rule 7 of C.P.C. is concerned, the interpretation has to be more liberal than that of Section 5 of the Limitation Act. The reason given by the petitioner is that he did not receive any intimation from his Advocate about the pendency of the proceedings and therefore, he was not able to present his defence at time.

5. The fact remains that a joint trial was allowed for the present suit to be tried along with O.S.No.158 of 2011 on the file of the District Munsif Court, Sholinghur. In my view, it does not make a difference. An application having been filed by the 4th defendant and having given a reason, which is plausible to me, the Court below ought to have entertained the application especially, when a written statement has been filed along with an application.



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6. Applying the verdict of the Supreme Court in *Arjun Singh vs. Mohindra Kumar and others, AIR 1964 SC 993*, the Civil Revision Petition stands allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

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Index:Yes/No
Speaking Order :Yes/No
Neutral Citation:Yes/No

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To

1.The Sub-Registrar
Kaveripakkam Sub-Registrar Office
Kaveripakkam
Arakkonam Taluk, Vellore District.

2.The Subordinate Judge, Arakkonam.



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V.LAKSHMINARAYANAN,J.

Kj

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