



CRP. No. 3398 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.11.2023

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

CRP No. 3398 of 2023

&

CMP No. 21077 of 2023

T.Gulobjohn

...Petitioner

Vs.

1.T.Yurarajan

2.T.Jeeva

3.Ganapathi

4.Ganesan

5.Periyasamy

....Respondents

PRAYER : This petition filed under article 227 of the Constitution of India, to set aside the fair and decreetal order dated 22.08.2023 made in I.A No. 7 of 2023 in O.S No. 86 of 2016 on the file of the Sub Court, Rasipuram.

For Petitioner : Mr. N.Manoharan

For Respondents : Not appeared



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ORDER

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Challenging the impugned order dated 22.08.2023 passed by the Sub Court, Rasipuram, in I.A No. 7 of 2023 in O.S No. 86 of 2016, the petitioner filed this petition.

2. The petitioner herein filed I.A No. 7 of 2023 in O.S No. 86 of 2016 before the Sub Court, Rasipuram, to set aside the exparte order dated 14.09.2022. After considering the submissions on either side the Court dismissed the said petition. Challenging the same the petitioner filed this petition.

3. Despite serving notice there is no representation on the side of the respondent.

4. The learned counsel for the petitioner submits that the petitioner had sustained fracture on her leg, due to which, she was not able to attend the suit proceedings hence the Trial court passed exparte decree. Thereafter, the petitioner filed I.A No. 7 of 2023 in O.S No. 86 of 2016 to set aside the exparte decree but the Court below without appreciating the petitioner's health issue dismissed the said application as such is unjustifiable and liable to be set aside. Hence, he prays to allow this petition.



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5. On seeing the fact of the case, it reveals that the petitioner is 55 years old, due to the fracture in her leg she was not able to attend the suit proceedings to that effect she marked the medical certificates as Ex.B1. Hence, the reason assigned by the petitioner is justifiable. Further, If the opportunity is not given to the petitioner, her valuable right to defend the case will be defeated. The order passed by the Trial Court in I.A No. 7 of 2023 in O.S No. 86 of 2016 is set aside. Thus, I.A No. 7 of 2023 in O.S No. 86 of 2016 is allowed. Further, the Trial Court is directed to dispose the above suit within a period of six months from the date of receipt of a copy of this order.

6. In result, this civil revision petition is dispose of. No cost. Consequentially, connected miscellaneous petition is closed.

06.11.2023

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T.V.THAMILSELVI,J.

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To
1. The Sub Court, Rasipuram,

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