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C.R.P.(PD)No.3639 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.08.2023

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.(PD)No.3639 of 2019

and

C.M.P.No.23894 of 2019

R.Mahendra Prabhu

.. Petitioner

VS

1.M.Sudha

2.R.Murugesan

3.M.Santhi

.. Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decretal order dated 27.08.2019 made in I.A.No.121 of 2019 in O.S.No.134 of 2018 on the file of the Additional Sub Court, Virudhachalam.

For Petitioner : Mr.C.Munusamy

ORDER

This revision arises against an order allowing an application filed under Order IX Rule 7 of C.P.C.



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2. The civil revision petitioner is the plaintiff and the respondents are the defendants. The suit in O.S.No.134 of 2018 had been presented for damages on account of defamation. The suit was posted on 10.12.2018 for filing of a written statement. On that day, the 1st respondent, who was taking care of the case on behalf of the respondents 2 & 3 was not in a position to instruct the lawyer, hence, they were set exparte. Therefore, the defendants filed the application under Order IX Rule 7 of C.P.C. to set aside the exparte order. They would also state that an application was moved before this Court for transfer of the suit to be tried along with the divorce proceedings initiated before the Subordinate Court at Omalur.

3. The learned Judge found that the cause is reasonable and allowed the application. Challenging the same, the present revision has been filed.

4. Mr.C.Munusamy, the learned counsel appearing for the petitioner would contend that absolutely, no reason has been afforded by the respondents 1 to 3. Therefore, the Court below erred in allowing the application.



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5. I have to remind myself that an order passed under Order IX Rule 7 of C.P.C. is a discretionary order, which is not ordinarily susceptible to revisional jurisdiction under Article 227 of the Constitution of India. Apart from that, the petition was filed within 30 days from 10.12.2018 and therefore, the Court has exercised its discretion in favour of the respondents 1 to 3. By pushing the parties to a full trial, the Court has not caused any pre judice to the plaintiff or the defendants.

6. In the light of the above, I am not inclined to interfere with the order in I.A.No.121 of 2019 in O.S.No.134 of 2018 on the file of the Additional Sub Court, Virudhachalam, dated 27.08.2019 and the same is confirmed. The Civil Revision Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

22.08.2023

Index:Yes/No
Speaking order/Non-speaking order
Neutral Citation:Yes/No

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V. LAKSHMINARAYANAN,J.

kj/rjr

To

The Subordinate Judge, Virudhachalam.

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