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C.R.P.No.3814 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.10.2023

CORAM:

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

C.R.P.No.3814 of 2023

and

C.M.P.No.23639 of 2023

Barani

... Petitioner

-Vs-

1.Padma

2. Rajalakshmi

... Respondents

Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside order dated 12.07.2023 made in I.A.No.5 of 2023 in I.A.No.4 of 2023 in O.S.No.217 of 2019 on the file of Principal District Judge, Villupuram.

For Petitioner

: Mr.Aditya Chandramouli

ORDER

Challenging the impugned order passed in I.A.No.5 of 2023 in I.A.No.5 of 2023 in O.S.No.217 of 2019 by the learned Principal District Judge, Villupuram, the Revision Petitioner/plaintiff preferred this Civil Revision Petition.



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

3. Before the trial court, the Revision Petitioner filed a suit in O.S.No. 217 of 2019 against the defendants for the relief of specific performance. Initially, an exparte decree was passed and to set aside the same, the defendants filed an application in I.A.No.2 of 2022 to condone the delay before the trial court and the same was allowed. Against which, the plaintiff preferred a Civil Revision Petition before this court in C.R.P.No. 1528 of 2023 and the same was dismissed confirming the findings of the trial judge. Accordingly, the delay was condoned. Thereafter, the defendants filed an application to set aside the exparte decree under Order 9 Rule 7 of C.P.C. in I.A.No. 4 of 2023 and the same was posted for submitting counter by the Revision Petitioner/plaintiff. But on that day, as she preferred Civil Revision Petition, she was not able to submit her submissions before the trial court and due to her absence, she was set exparte, thereby the said application was allowed. Challenging the said order, the Revision Petitioner/plaintiff filed an Interlocutory Application in I.A.No.5 of 2023, but the same was dismissed by the trial judge stating that without contesting the main suit, now she wanted to set



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aside the petition for filing counter in I.A.No.4 of 2023, which is erroneous one and the same is liable to be set aside. Aggrieved over the said findings, the Revision Petitioner preferred this Civil Revision Petition.

4. The learned counsel for Revision Petitioner would submit that one more opportunity is to be given to her to submit her objections before the trial court, otherwise, she will be put into much hardship. Accordingly, she prayed to set aside the findings of the trial judge.

5. On perusal of records, it reveals that an Interlocutory Application in I.A.No.4 of 2023 was adjourned for more than three hearings, but the Revision Petitioner was not present and she was set exparte on 10.04.2023. However, in a Civil Revision Petition filed by her in C.R.P.No.1528 of 2023, she obtained the order only on 19.06.2023. So, due to the pendency of C.R.P., she was not able to follow the said application preferred before the trial court. Hence, the reasons assigned by the Revision Petitioner is justifiable one and the findings rendered by the trial judge is liable to be set aside. If opportunity is not given to the Revision Petitioner, she will be put into much hardship and it would not cause any prejudice to the respondents. Accordingly, this Civil Revision



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Petition is allowed and the findings rendered by the trial judge in I.A.No.5 of 2023 in I.A.No.4 of 2023 in O.S.No.217 of 2019 is set aside. The trial judge is directed to give one more opportunity to the Revision Petitioner and on hearing his submissions, trial judge is directed to dispose the application on merit within a period of eight weeks from the date of receipt of copy of this order. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

19.10.2023

Index : Yes/No
Speaking Order : Yes/No
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To

The Principal District Judge, Villupuram.



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T.V.THAMILSELVI, J.

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