



C.R.P.No. 3986 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.11.2023

CORAM:

THE HONOURABLE Mrs. JUSTICE T.V.THAMILSELVI

C.R.P.No. 3986 of 2023

and

C.M.P.No. 24469 of 2023

1.Veerappan
2.Dharman

.. Petitioners

Vs

Amsa

.. Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order dated 11.08.2023 made in I.A.No.701 of 2023 in O.S.No.74 of 2017 on the file of District Munsif Court, Dharmapuri.

For Petitioner : Mr. C. Prabakaran

ORDER

This Civil Revision Petition is filed challenging the impugned order dated 11.08.2023 made in I.A.No.701 of 2023 in O.S.No.74 of 2017 on the file of District Munsif Court, Dharmapuri, the defendants 1 and 2 have preferred this revision.



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2. Before the trial Court, the defendants 1 and 2 / petitioners herein filed an application along with written statement to set aside the ex parte order but the same was not been accepted by the trial Judge stating that, reason for the delay has not been properly explained. Accordingly, application was dismissed.

3. Challenging the said finding, the petitioners have preferred this revision before this Court.

4. The learned counsel for the petitioners / defendants 1 and 2 submitted that they remained ex parte on 27.11.2017 as they were held up at Bangalore for coolie work. The petitioners came to know the ex parte order only on 10.03.2023, from the date of knowledge, they filed an application to set aside the ex parte order along with written statement but the trial Judge failed to accept the same and dismissed the application.

5. Admittedly, the suit was filed in the year 2017 for the relief of declaration of title and other consequential relief against the petitioners /



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defendants. According to the revision petitioners, as they held up at Bangalore for coolie work, they were not able to attend the Court proceeding. After they came to know about the same, immediately filed application along with the written statement. If opportunity is not given to the defendants 1 and 2 / petitioners herein, their valuable right to defend the case will be defeated. The trial Judge erroneously dismissed the application without giving the opportunity, as such is liable to be set aside.

6. In the result, the Civil Revision Petition is allowed by setting aside the order dated 11.08.2023 made in I.A.No.701 of 2023 in O.S.No.74 of 2017 on the file of District Munsif Court, Dharmapuri. The trial Judge is directed to dispose the case by giving opportunity to the plaintiff / respondent herein to file reply statement, if any and proceed with the matter. No costs. Consequently, connected miscellaneous petition is closed.

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Index :Yes/No
Neutral Citation :Yes/No
AT



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T.V.THAMILSELVI, J.

AT

To
The District Munsif Court, Dharmapuri.

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