



WEB COPY



CRP No.3992 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.11.2023

CORAM :

THE HONOURABLE MRS. JUSTICE T.V. THAMILSELVI

Civil Revision Petition No.3992 of 2023

and

C.M.P. No. 24503 of 2023

N.Sudhakaran

... Petitioner

Versus

1.K.P.Moorthy

2.K.Premkumar

...Respondents

Civil Revision Petition filed Under Article 227 of Constitution of India, praying to set aside the order dated 17.02.2022 made in I.A.No.1 of 2021 in O.S.No.06 of 2009 on the file of the Court of the Additional District Judge, Hosur.

For Petitioner : Mr. T.Dhanasekaran

ORDER

The petitioner has filed this revision petition to set aside the order dated 17.02.2022 made in I.A.No.1 of 2021 in O.S.No.06 of 2009 on the file of the Court of the Additional District Judge, Hosur.

2. Heard, Mr. T.Dhanasekaran, learned counsel for the petitioner and

perused the materials available on record.



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3. Before the trial Court the petitioner has filed an application to set aside the ex-parte order dated 04.01.2021 passed against him in I.A.No.311 of 2017 and praying to file a counter and the same was dismissed by the learned trial Judge stating that sufficient opportunity was given to the petitioner / plaintiff and he had not filed the counter in time. However, the defendants 8 and 9 filed written statement along with set aside ex-parte application and the same was allowed. Further the plaintiff was aware of the CRP proceedings and already a direction was issued to proceed with the matter. Therefore, the learned trial Judge dismissed the said application. Challenging the said order the petitioner has preferred this revision petition.

4. The respondents 8 & 9 have filed an application under Order IX Rule 13 of CPC to set aside ex-parte decree along with a delay petition under Section 5 Limitation Act, for condoning the delay of 1735 days. The said delay petition was allowed on 18.12.2017 on payment of cost of Rs.7,500/- to the petitioner. The petitioner did not receive the cost amount from the respondents but filed CRP.No.2889 of 2018 before this Court and the same was dismissed on 26.03.2019, with a direction to dispose of the suit within a period of 6 months. Accordingly, the learned trial Judge proceeded with the matter. However, the plaintiff has filed an IA.No.311 of 2017 to set aside the ex-parte



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decree, but counter objection was not filed in time and he prays time to file a counter to set aside the ex-parte decree.

5. On a perusal of the records, it is seen that, already suit was restored on 04.01.2021 and issues were framed and it was posted for trial. As the petitioner has not filed any objection, the learned trial Judge totally allowed the application. The plaintiff had filed a suit in the year 2009 and it is ripe for trial. The defendants have already filed a written statement Therefore, the Plaintiff is advice to proceed with the trial, and in the order passed by the learned trial Judge, does not warrant any interference by this Court.

6. Accordingly, this Civil Revision Petition is dismissed. However learned trial Judge is directed to dispose of the case as early as possible. Consequently, connected miscellaneous petition is closed. No costs.

06.11.2023

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

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T.V.THAMILSELVI, J.

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To

1. The Additional District Judge, Hosur.
2. The Section Officer,
VR-Section, High Court of Madras.

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