



C.R.P.No.4227 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2023

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

C.R.P.No.4227 of 2023
and
C.M.P.No.25719 of 2023

C.P.Radhakrishnan (deceased)

R.Jothikumari

... Petitioner

-Vs-

1. A.Meerabai
2. A.Nailini Bai
3. Radhika
4. Rekha
5. Renuka Devi

... Respondents

Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order dated 26.09.2023 passed in I.A.No.2 of 2022 in O.S.No.3407 of 2021 on the file of XX Addl. District and Sessions Judge, City Civil Court, Allikulam, Chennai.

For Petitioner : Mr.G.Murugendran



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ORDER

Challenging the impugned order passed in I.A.No.08 of 2023 in I.A.No.02 of 2022 in O.S.No. 3407 of 2021 passed by the learned XX Addl. District and Sessions Judge, City Civil Court, Chennai, the Revision Petitioner/defendant preferred this Civil Revision Petition.

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 an application in I.A.No. 8 of 2023 to reopen the arguments of application filed in I.A.No.2 of 2022, but the said application was dismissed by the trial judge holding that to drag on the proceedings, she filed the said application and in spite of sufficient opportunity given to her, she has not taken any steps to argue the case and also there is no representation on her side, thereby dismissed the said applications as devoid of merit. Challenging the said findings, the Revision Petitioner/defendant preferred this Civil Revision Petition.

4. The learned counsel for Revision Petitioner would submit that due to unavoidable circumstances, she was not able to attend for enquiry



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But, the trial judge refused to accept the same stating that there is no valid reasons stated for reopening the application and no proof was produced for her illness. Accordingly, the said application was dismissed. Hence, he prayed to set aside the findings of the trial judge.

5. Records perused. On seeing the entire facts, the observation made by the trial judge that though sufficient opportunity was given to her, there is no representation on the side of Revision Petitioner and accordingly, that application was dismissed. In fact, the said application in I.A.No.2 of 2022 was filed by the respondents herein to set aside the abatement. If opportunity is not given to her to submit her defence, her valuable right to defend the case will be defeated. But, without considering her submissions, the trial judge erroneously dismissed the application, as such is erroneous one and the same is liable to be set aside. Accordingly, this Civil Revision Petition is allowed and the findings rendered by the trial judge in I.A.No.8 of 2023 in I.A.No.2 of 2022 in O.S.No.3407 of 2021 is set aside and the said application is ordered to be allowed. The trial judge is directed to give one more opportunity to her and she is directed to cooperate with the proceedings. On hearing the submissions of Revision Petitioner, the trial judge is directed to proceed with the application filed



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in I.A.No.08 of 2023 in I.A.No.2 of 2022 and the dispose the same within a period of four weeks from the date of receipt of copy of this order. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

24.11.2023

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

The XX Addl. District and Sessions Judge,
City Civil Court, Allikulam, Chennai.



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T.V.THAMILSELVI, J.

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