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CRP.No. 799 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.11.2024

CORAM:

THE HONOURABLE MR. JUSTICE R. SAKTHIVEL

Civil Revision Petition No. 799 of 2023

and

Civil Miscellaneous Petition No. 6109 of 2023

Ajay

...Petitioner

versus

Kotteeswari

...Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal Order dated November 16, 2022 passed in I.A.No. 1 of 2022 in O.S.No. 18 of 2020, on the file of the District Munsif, Gudiyattam, Vellore District.

For Petitioner : Mr.M.Venkatesh

For Respondent : No Appearance



CRP.No. 799 of 2023

WEB COPY

ORDER

This Civil Revision Petition is directed against the order dated November 16, 2022 passed in I.A.No.1 of 2022 in O.S.No.18 of 2020 on the file of the District Munsif, Gudiyattam, Vellore District, [hereinafter “Trial Court”].

2. The revision petitioner herein is the plaintiff and the respondent is the defendant in the Original Suit.

3. The case of the revision petitioner is that he filed the Suit in O.S.No.18 of 2020 on the file of the Trial Court for specific performance and an *ex-parte* Decree was passed therein on March 17, 2021. Subsequently, the respondent/defendant has filed petitions in I.A.Nos.1&2 of 2022 under Section 5 of the Limitation Act, 1963 seeking to condone the delay of 334 days in filing the petition to set aside the *ex-parte* Decree



CRP.No. 799 of 2023

dated March 17, 2021 and restore the above case for fresh disposal. The

Trial Court after hearing both sides, allowed the petitions on payment of cost of Rs.2,000/-. Feeling aggrieved with the order passed by the Trial Court, the revision petitioner/plaintiff has come forward with the present Civil Revision Petition.

4. Mr.M.Venkatesh, learned counsel for the revision petitioner/plaintiff submitted that trial has been commenced in the suit proceedings and the plaintiff has filed chief affidavit as PW1 and then the Suit was posted for cross-examination of PW1. He further submitted that the respondent/defendant with an intention to drag on the proceedings, has not cross-examined the witness till date. Hence, he prayed to allow the above Civil Revision Petition.



CRP.No. 799 of 2023

WEB COPY

5. Considering the facts and circumstances of the case and since trial has commenced, this Court is of the view that no need to go into the merits of the impugned order. Hence, in the interest of justice, this Court directs the trial Court to dispose of the Suit in O.S.No.18 of 2020 within a period of three months from the date of receipt of a copy of this order. The respondent/defendant shall co-operate with the Court proceedings.

6. With the above directions, this Civil Revision Petition is disposed of. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

11.11.2024

MSM
To
The District Munsif,
Gudiyattam, Vellore District.



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CRP.No. 799 of 2023

R. SAKTHIVEL, J

MSM

CRP.No. 799 of 2023

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