



C.R.P.[NPD].No.4686 of 2024

THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 20.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

C.R.P.[NPD].No.4686 of 2024 & CMP.No.26193 of 2024

J.Samikannu

. . . Petitioner

Versus

1. Amaravathi
2. Vijayan
3. Mullaivalavan

4. The Sub Registrar,
Jayamkondam, Ariyalur District.

. . . Respondents

PRAYER : Petition filed under Article 227 of Constitution of India to allow this Revision Petition and set aside the fair and decreetal Order passed in I.A.No.04 of 2024 in O.S.No.52 of 2009 dated 08.07.2024 by the Additional District Munsif Court, Jayamkondam in respect of D3/revision petitioner alone.

For petitioner : Mr.R.Sethuvarayar

For respondents : Mr.D.Gopa, Government Advocate – R4

ORDER



C.R.P.[NPD].No.4686 of 2024

Challenging the dismissal of the application filed by the revision petitioner under Order IX Rule 7 of Code of Civil Procedure to set aside the exparte order passed against him on 18.03.2024, this Civil Revision Petition has been filed.

2. The suit in O.S.No.52 of 2009 has been filed for declaration and injunction against the defendants. The petitioner, who is the third defendant, has been set exparte on 18.03.2024. Therefore, he has filed an application to set aside the exparte Order. The same has been dismissed on the ground that delay has not been properly explained.

3. It is relevant to note that there are four defendants in the suit and the other defendants are contesting the matter. The petitioner has also filed the written statement and he was set exparte since he has not cross examined P.W.1 on 18.03.2024. It appears that the petitioner immediately filed an application to set aside the exparte Order.

4. In such view of the matter, though there is some negligence on the part of the revision petitioner, the trial Court ought to have given an



C.R.P.[NPD].No.4686 of 2024

opportunity to the revision petitioner to participate in the civil dispute. Mere technicalities are not a ground to deny the substantial right of the parties to establish their case in the pending suit.

5. Accordingly, this revision petition is allowed and the Order of the trial Court dated 08.07.2024 made in I.A.No.4 of 2024 in O.S.No.52 of 2009 is set aside and the trial Court shall afford an opportunity to the revision petitioner to cross examine P.W.1 and proceed the suit expeditiously. No costs. Consequently, connected miscellaneous petition is closed.

20.11.2024

Index : Yes / No

Internet: Yes

Speaking/non speaking order

vrc



WEB COPY



C.R.P.[NPD].No.4686 of 2024

N. SATHISH KUMAR, J.

VTC

C.R.P.[NPD].No.4686 of 2024

20.11.2024