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C.R.P.(NPD).No.1221 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(NPD).No.1221 of 2024

1.Lakshmi Ammal

2.Kannan

... Petitioners

VS

Banumathi

... Respondent

Prayer: Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, praying to set aside the fair and decretal order in I.A.No.1 of 2022 in O.S.No.125 of 2006 on the file of learned Principal Sub-Court, Ariyalur dated 25.07.2023 by allowing the above Civil Revision Petition.

For Petitioners : Mr.M.Saravanakumar

ORDER

The Civil Revision Petition is filed challenging the order passed by the Trial Court allowing the application filed by the respondent seeking to set aside the *exparte* decree passed against the respondent.

2. The petitioners herein filed a suit for declaration of title, recovery of possession and mandatory injunction. When the suit was posted for cross



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examination of PW.1, the respondent herein failed to cross examine and hence, an *exparte* decree was passed on 12.09.2022. The respondent herein filed a petition to set aside the *exparte* decree on 12.10.2022 within the limitation time.

3. In the affidavit filed in support of the petition, it was stated by her at the relevant point of time, she was not well and hence, she could not contact her counsel and instruct him suitably. It was further stated that after recovery, she contacted her counsel and acquired knowledge about the *exparte* decree and filed the instant application to set aside the *exparte* decree. Being satisfied with the reasons assigned in the affidavit, the Trial Court allowed the application on payment of costs Rs.1,000/- as cost to the petitioners. Aggrieved by the same, the petitioners are before this Court.

4. The learned counsel appearing for the petitioners submitted that the suit is of the year 2006 and the main aim of the respondent is to drag on the proceedings and therefore, the Trial Court ought not to have allowed the petition to set aside the *exparte* decree.



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5. Having regard to the fact the dispute involved in the suit is regarding title to the immovable property, this Court is also inclined to take a liberal view of the matter, especially when the Trial Court exercised the discretion in favour of the respondent and set aside the *ex parte* decree in order to give an opportunity to the respondent. I do not find any error in the order impugned in this revision.

6. Accordingly, the Civil Revision Petition stands dismissed. Having regard to the fact the suit is of the year 2006 and the age of the 1st petitioner/1st plaintiff is 81, this Court is inclined to direct the Trial Court to dispose of the suit as expeditiously as possible, preferably within a period of nine months from the date of receipt of copy of this order. No costs.

28.03.2024

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
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The Principal Sub-Court,
Ariyalur.

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S.SOUNTHAR, J.

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