



C.R.P.(MD)No.917 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 05.09.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(MD)No.917 of 2024

and

C.M.P.(MD)No.5029 of 2024

Vasanthi

... Petitioner / Respondent / Plaintiff

Vs.

Swamidas

... Respondent / Petitioner / Defendant No.3

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to call for the records pertaining to the order dated 17.11.2023 passed in I.A.No.201 of 2022 in O.S.No.207 of 2007 by the learned District Munsif cum Judicial Magistrate Court No.I, Kodaikanal and to set aside the same by allowing this Civil Revision Petition.

For Petitioner : no appearance

For Respondent : Mr.G.Prabhu Rajadurai



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ORDER

None appears for the revision petitioner yesterday. The case was therefore directed to be listed under the caption 'for dismissal' today. Today also, there is no representation. Heard the learned counsel appearing for the respondent.

2. The petitioner herein filed O.S.No.207 of 2007 for permanent injunction restraining the defendants from interfering with her possession of the suit property. The respondent herein was shown as the third defendant. The plaintiff obtained an exparte order of add interim injunction. To vacate the same, the third defendant filed I.A.No.286 of 2007. The matter was heard at length. Ex.P1 to Ex.P8 were marked on the side of the plaintiff / petitioner. Ex.R1 to Ex.R4 were marked on the side of this respondent herein. On the side of the first defendant, Ex.R1 to Ex.R5 were marked. The court below considered the materials on record on either side. It noted that the third defendant (respondent) herein had already obtained decree against the petitioner / plaintiff in O.S.58 of 2003 and O.S.No.59 of 2003. Copies of the decrees obtained in the aforesaid suits is enclosed in the typed set of papers. They were also marked as Ex.R1 & Ex.R2. Interim injunction granted in favour of the plaintiff was also vacated. While so, an exparte decree came to be



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passed on 22.07.2013. The third defendant / respondent herein claims that he was not aware of passing of the exparte decree. There was a delay of 3132 days in filing IA. To set aside the same and to condone the delay, I.A.No.201 of 2023 was filed. Vide order dated 17.11.2023, the said IA was allowed by the court below. Questioning the same, this civil revision petition came to be filed.

3. As already noted, the revision petitioner has not appeared to question the correctness of the order passed by the court below. After going through the materials on record, I am more than satisfied that the impugned order does not call for interference. While passing an exparte decree dated 22.07.2013, the court below had observed that the defendants were set exparte. If only the court below had a look at the order dated 29.10.2007 made in I.A.No.286 of 2007, such decree would not have been passed. It is also seen that the third defendant had filed the written statement on 15.02.2012. There is no reference to the contents of the written statement in the Judgment dated 22.07.2013. No doubt, there has been enormous delay on the part of the respondent herein in filing a set aside petition. But then, to render substantial justice, the trial munsif had condoned the delay. Discretion has been properly exercised. The exparte Judgment and decree dated 22.07.2013 in O.S.No.207 of 2007 suffers from perversity on the very face of it. At this stage, I do not want to pass any



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more comments. The impugned order has been correctly passed and it does not warrant interference.

4. The Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

05.09.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
rmi

To:

The District Munsif cum Judicial Magistrate Court No.I, Kodaikanal.



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G.R.SWAMINATHAN, J.

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