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C.R.P.No.1272 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.08.2025

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

**C.R.P.No.1272 of 2022
and C.M.P.No.6836 of 2022**

R.Sasikala

.. Petitioner/Petitioner/1st Defendant

Vs.

S.Krishnasamy

.. Respondent/Respondent/Plaintiff

PRAYER: Civil Revision Petition filed under Section 115 of C.P.C, to set aside the fair and decreetal order dated 28.10.2021 made in I.A.No.3 of 2019 in O.S.No.504 of 2018 on the file of the I Additional District Munsif Court, Coimbatore.

For Petitioner : Mr.S.Karthikei Balan

For Respondent : No appearance

ORDER



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2. O.S.No.504 of 2018 had been presented for the relief of permanent injunction and for costs. In the said proceedings, the civil revision petitioner was arrayed as the first defendant. The matter was posted on 01.11.2018 for filing of written statement. The defendants did not file their written statement. Consequently, they were called absent and set *ex-parte*.

3. To set aside the same, they presented I.A.Nos.2 and 3 of 2019. The respondent filed a counter pointing out that the suit is posted for arguments and therefore, the petitions under Order IX Rule 7 C.P.C are not maintainable.

4. The learned I Additional District Munsif Judge dismissed the petitions on 28.10.2021, pointing out that subsequent to the defendants being set *ex-parte*, the Court proceeded further and on 03.01.2019, had



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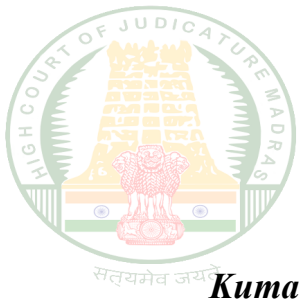
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marked the documents. Thereafter, the matter was posted for judgment on 24.01.2019 and it had been kept pending for the said purpose. The Court held as there was no further hearing to be conducted in the suit, the applications were untenable and consequently, dismissed the petitions. Challenging the same, the present Civil Revision Petition.

5. I have heard S.Karthikei Balan, for the civil revision petitioner. Though the respondent was served, he has not entered appearance.

6. Mr.S.Karthikei Balan, brought to my notice that the suit itself came to be decreed on 16.10.2024.

7. The purpose of filing an application under Order IX Rule 7 C.P.C is to set aside the *ex-parte* order, when the suit is adjourned for further hearing. A perusal of the impugned order shows that on the date on which the application was filed, the trial was over, the arguments had been heard and the suit was posted for judgment. By the very tenor under Order IX Rule 7 C.P.C, the petition is not maintainable. (See, **Arjun Singh v. Mohindra**



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Kumar and others, AIR 1964 SC 993). Consequently, I do not find any reason to take a different view than that taken by the learned Additional District Munsif Judge at Coimbatore.

8. Since the decree dated 16.10.2024 is an *ex-parte* decree, the dismissal of an application under Order IX Rule 7 C.P.C will not stand in the way of the petitioner to move an appropriate application under Order IX Rule 13 C.P.C.

9. With the above observations, this Civil Revision Petition is dismissed. There shall be no order as to costs. Connected miscellaneous petition is closed.

01.08.2025

Index:Yes / No
Speaking Order :Yes / No
Neutral Citation:Yes / No
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The I Additional District Munsif Court, Coimbatore.

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V.LAKSHMINARAYANAN, J.

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