



C.R.P(MD)No.960 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 20.01.2025

CORAM :

THE HONOURABLE Mr. JUSTICE G.ILANGO VAN

C.R.P(NPD)(MD)No.960 of 2020
and C.M.P.(MD)No.6271 of 2020

Pushpam

... Petitioner

Vs

Palavesamuthu

... Respondent

Prayer : This Civil Revision Petition is filed under Section 115 of C.P.C., against the fair and decreetal order dated 01.07.2020 passed in I.A.No.1086 of 2018 in O.S.No.90 of 2007 on the file of the District Munsif Court, Nanguneri.

For Petitioner : Mr.V.Meenakshisundaram

For Respondent : No Appearance

ORDER

This Civil Revision Petition is filed against the fair and decreetal order dated 01.07.2020 passed in I.A.No.1086 of 2018 in O.S.No.90 of 2007 on the file of the District Munsif Court, Nanguneri.



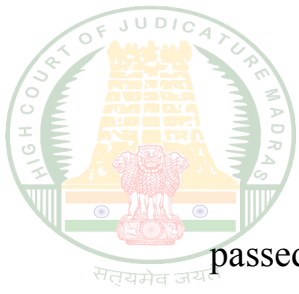
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2. The suit in O.S.No.90 of 2007 was filed by the respondent herein, seeking the relief of declaration and for consequential mandatory injunction and for costs. The revision petitioner appeared before the trial Court, filed the written statement. The issues were framed in the light of the pleadings of the parties. On the side of the respondent herein, he himself was examined as P.W.1. Two witnesses were examined. On the side of the revision petitioner, none was examined and no document was marked. After hearing both sides, the suit was decreed as prayed for with cost, stating that it is only an ex parte decree. I.A.No.1086 of 2018 was filed by the revision petitioner which came to be dismissed by the trial Court. Against which this Civil Revision Petition is preferred.

3. In spite of notice the respondent, he has not chosen to appear. His name was printed in the cause list. The revision petitioner was heard.

4. At the time of hearing, it was pointed out to the revision petitioner's counsel that absolutely there is no indication in the judgment



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passed by the trial Court that the revision petitioner were set ex parte and ex parte decree is passed.

5. As mentioned above, it is stated by the trial Court that after completion of evidence on the side of the plaintiff, there is no evidence and documents, on the side of the defendant. After hearing both sides, the judgment was rendered on merits. This was the exact observation made by the trial Court in this impugned petition also. Against a judgment which was rendered in merits how this revision will lie is not properly explained by the revision petitioner. So it may not be proper on the part of this Court to get into the merits of the matter. It is for the revision petitioner to prefer an appeal in the manner known to law. By misappreciation of facts, it appears that this revision is preferred as well as the petition in I.A.No.1086 of 2018.

6. Since it is a bonafide mistake on the part of the revision petitioner, I am of the considered view that the time spent in prosecuting this matter can be deducted at the time of calculating the time in filing the regular appeal, against the judgment and decree of the trial Court.



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That liberty alone is granted to the revision petitioner. He can file an appeal against the judgment and decree if so advised.

7. With the above said liberty, this Civil Revision Petition is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

20.01.2025

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

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G.ILANGO VAN, J.

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To

- 1.The District Munsif Court, Nanguneri.
- 2.The Section Officer, VR Section,
Madurai Bench of Madras High Court, Madurai.

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20.01.2025