

Arumugam Vs. 1.Veeradas..

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Court : Chennai

Decided On : Jan-10-2013

Judge : G.Rajasuria

Appellant : Arumugam

Respondent : 1.Veeradas..

Judgement :

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT DATED:

10. 01/2013 CORAM THE HONOURABLE MR.JUSTICE G.RAJASURIA C.R.P.(NPD)(MD)No.872 of 2011 and M.P(MD)No.1 of 2011 Arumugam ... Petitioner/Petitioner/ 2nd Defendant Vs 1.Veeradas ... 1st Respondent/ 1st Respondent/Plaintiff 2.Panchipalam 3.Alphonse 4.Durai 5.Nesamani ... Respondents 2 to 5/ Respondents 2 to 5/Defendants 3 to 6 Prayer Petition filed under Section 115 of the Code of Civil Procedure, to set aside the order dated 24.11.2010 passed in I.A.No.236 of 2009 in O.S.No.236 of 1986 by the I Additional District Munsif, Nagercoil. !For Petitioner ... Mr.A.Arumugam ^For Respondents ... Mr.T.Lajapathi Roy for R.1 R.2 to R.5 - Given up. * * * * * :ORDER This Civil Revision Petition has been filed to get set aside the order dated 24.11.2010 passed in I.A.No.236 of 2009 in O.S.No.236 of 1986 by the I Additional District Munsif, Nagercoil.

2. Heard the learned Counsel for the revision petitioner and the learned Counsel for the first respondent, who in unison, without any contradiction between

themselves, would submit thus: (i) The parties entered into a compromise in the suit in O.S.No.236 of 1986 which was earlier decreed exparte. However, I.A.No.236 of 2009 was filed under Section 5 of the Limitation Act, to get the delay of 2111 days condoned in filing the application under Order 9 Rule 13 of the Code of Civil Procedure, but that application was dismissed. (ii) Being aggrieved by and dissatisfied with the same, this Civil Revision Petition has been filed on various grounds. (iii) Now then, in view of the compromise, this Court might allow the application filed under Section 5 of the Limitation Act and condone the delay of 2111 days in filing the application under Order 9 Rule 13 of the Code of Civil Procedure, by allowing this Civil Revision Petition and mandating the trial Court to take up the application filed under Order 9 Rule 13 of the Code of Civil Procedure and set aside the exparte decree and after bringing the suit on record, to proceed to record the compromise.

3. I could see considerable force in the submissions made by both the learned Counsel and accordingly, I would like to condone the delay of 2111 days in filing the application under Order 9 Rule 13 of the Code of Civil Procedure, by allowing I.A.No.236 of 2009. The lower Court is mandated to number the application filed under Order 9 Rule 13 of the Code of Civil Procedure and allow the same after hearing both sides. Whereupon, as per law, after recording the statements of both sides and marking the compromise memo, the same may be recorded if it is found to be genuine and free from doubt.

4. In the result, this Civil Revision Petition is disposed of as above. Consequently, the connected Miscellaneous Petition is closed. No costs. rsb To The Court of I Additional District Munsif, Nagercoil.

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