

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 16.04.2015

CORAM

THE HONOURABLE MS. JUSTICE K.B.K.VASUKI

C.R.P. PD.No.2450 of 2003

&

C.M.P.No.18501 of 2003

M.Selvam

...Petitioner

Vs

1.Sakthivel

2.Kuppan

...Respondents

This Revision Petition is filed under Article 227 of the Constitution of India against the order dated 29.10.2002 passed in I.A.No.2428 of 2002 in O.S.No.410 of 2000 on the file of III Additional District Munsif, Kallakurichi and the same may kindly be set aside.

For Petitioner : Mr.E.Vijayanand

O R D E R

This Civil Revision Petition is filed against the order made in I.A.No.2428 of 2002 made in O.S.No.410 of 2000 on the file of III Additional District Munsif, Kallakurichi. The suit is filed for the relief of permanent injunction against the defendants restraining them from interfering with the plaintiff's possession and enjoyment of the property. The suit was dismissed for default. The petitioner/plaintiff filed I.A.No.2428 of 2002 to set aside the order of dismissal and to restore the suit to file. The said petition was ordered on 22.10.2002 on payment of costs of Rs.250/- payable to the respondent on or before 28.10.2002. It is indicated in the order that on failure to pay the said amount, the petition shall stand dismissed automatically. The petitioner did not either comply with the conditional order nor filed any petition to extend the time. The petition was posted on 29.10.2002 for reporting compliance and since the cost was not paid, the petition was dismissed. Aggrieved against the order dated 29.10.2002, the petitioner has come forward with the present Civil Revision Petition.

2.The learned counsel for the petitioner would submit that since the petitioner was employed in Bombay, he was not able to pay the cost. The same cannot be accepted as a bona fide reason at this length of time. Further, the petitioner's averments to the effect as if he was residing only in Bombay, is falsified by his averments made in the plaint that he has been residing at Kulancurichi Village, Sankarapuram Taluk. The same address is also given in the petition filed under Order 9 Rule 9 CPC. The same address is mentioned in the affidavit filed in support of the petition under Order 9 Rule 9 CPC. The petitioner having come to Court by way of Civil Suit seeking certain relief is bound to pursue his remedy diligently. The petitioner having failed to do so and having failed to pay the cost, is not entitled to get any indulgence from this Court. That being so, this Court finds no reason to interfere with the order of the trial Court.

4.In the result, the Civil Revision Petition is dismissed with liberty given to the petitioner to file a fresh suit in the event of fresh cause of action if any arises. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(R)

//True Copy//

Sub Assistant Registrar

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To

The III Additional District Munsif,
Kallakurichi.

1 CC to Mr.E.Vijayanand, Advocate SR.No. 20726

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&
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RJ (CO)
PSI (14.05.2015)