

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:09.12.2016

Coram

The Hon'ble Mr. Justice **S.M.SUBRAMANIAM**

C.R.P.(PD) Nos.405 & 592 of 2014 &
M.P.Nos.1 & 1 of 2014

T.Babu .. Petitioner in both CRPs.

Vs

1.R.Vivek

2.Vijaya .. Respondents in both CRPs.

Common Prayer :- Civil Revision Petitions filed under Article 227 of the Constitution of India as against the orders dated 10.09.2013 passed in I.A.Nos.9135 and 9136 of 2013 in O.S.No.3014 of 2011 on the files of XII Assistant Judge, City Civil Court, Chennai.

For petitioner .. Ms.T.Mathi
(in both CRPs)

For Respondents .. No appearance

COMMON ORDER

The present Civil Revision Petitions have been filed challenging the orders passed in I.A.Nos.9135 and 9136 of 2013 in O.S.No.3014 of 2011 on the files of XII Assistant Judge, City Civil Court, Chennai.

2.The petitioner is the plaintiff before this Court. The petitioner has filed O.S.No.3014 of 2011 for permanent injunction. The petitioner has also filed I.A.Nos.9135 & 9136 of 2013, with a prayer to reopen the evidence of DW1 for cross examination, which was closed by the trial Court on 24.06.2013. The trial Court rejected both the Interlocutory Applications on the ground that the cost amount of Rs.500/- in respect of both Applications were not paid and there was no representation till 3.30 p.m. on 10.09.2013.

3.This Court is able to find that the non-payment of cost and non appearance of the Counsel before the lower Court was the mistake committed by the counsel on record and for that mistake, the respective parties should not be allowed to suffer. Similarly, parties are at liberty to initiate action against his counsel in the manner known to law and on that grounds, the merits and the de-merits of the Suit

should not be allowed to suffer. Such being the case, this Court is of the view that the orders passed by the trial Court in both the Interlocutory Applications are liable to be set aside.

4. Accordingly, Civil Revision Petitions are allowed and the orders passed by the XII Assistant Judge, City Civil Court, Chennai, in I.A.Nos.9135 and 9136 of 2013 in O.S.No.3014 of 2011, are set aside, subject to the condition that the petitioner/plaintiff shall pay the cost of Rs.500/-, in each case, within a period of one week from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed.

09.12.2016

rpa

To

The learned District Munsif,
Harur, Dharmapuri District.

**S.M.SUBRAMANIAM, J.
Rpa**

**C.R.P.(PD) Nos.405 &
592 of 2014**

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