

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.10.2016

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN

C.R.P.(PD) No.3098 of 2016

V.K.Rahaman @ V.Kaleel Rahaman

... Petitioner

Vs.

1. Pailwan Sahib Charities Trust 1911
rep. by its Trustees
(i) F.A. Gafoor
(ii) Dawood
(iii) Fathima Bi

having office at
No.247, Lingi Chetty Street,
Chennai 600 001.

2. Ayesha Ameena
3. Thameena
4. Hajeera

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the docket order dated 15.09.2016 in I.A.No.12327 of 2016 in O.S.No.6224 of 2002 passed by the XI Assistant Judge, City Civil Court, Chennai and allow this petition.

For Petitioner : Mr.J.Sudhakaran

For 1st Respondent : Mr.A.P.Suryaprakasam

ORDER

The petitioner has filed an application in I.A.No.12327 of 2016 before the Trial Court for adjournment. The application was allowed subject to the condition that the petitioner pays a sum of Rs.6,000/- to the District Legal Services Authority on or before 22.09.2016.

2. The petitioner has come up with this Civil Revision Petition with a grievance that being a chronic diabetic patient and leading a difficult life with amputated leg, it is not possible to pay the costs. In view of the grievance projected by the petitioner, I have issued notice to the respondents.

3. Learned counsel appearing for the 1st respondent submitted that the petitioner has been dragging the matter right from 2002 and it was only under such circumstances, the Trial Court imposed costs on him.

4. The suit in O.S.No.6224 of 2002 was instituted by the 1st respondent against the petitioner praying for a decree of recovery of possession. It is true that the petitioner took adjournments on earlier occasions and that was the reason which made the learned Trial Judge to impose costs on him. However, the question is as to whether merely on account of the failure of the petitioner to appear before the Trial Court to give

evidence on a particular date, the Trial Court was justified in imposing costs of Rs.6,000/- so as to permit him to let in evidence. Since the petitioner has been defending the proceedings right from 2002, I consider it deem and fit to give him one more opportunity to give evidence without liability to pay costs.

5. In the result, the order dated 15.09.2016 in I.A.No.12327 of 2016, imposing costs on the petitioner is set aside. The learned Trial Judge is directed to post the suit in O.S.No.6224 of 2002 for evidence on the side of the petitioner, on 01.11.2016. The evidence of the petitioner and his witnesses shall be completed by the learned Trial Judge by 04.11.2016. Thereafter, the matter should be posted for arguments.

6. Since the suit is of the year 2002, every effort should be taken to dispose of the suit early and in any case, on or before 28.02.2017. It is made clear that in case, the petitioner or his witnesses fail to appear before the Trial Court on 01.11.2016, evidence on his side shall be closed, so as to enable the Court to dispose of the matter on the basis of available materials.

The Civil Revision Petition is disposed of as indicated above. No costs. Consequently, connected C.M.P.No.15789 of 2016 is closed.

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Note to Registry : Issue copy of this order on or before 24.10.2016.

K.K.SASIDHARAN,J.

(aeb)

To:

The XI Assistant City Civil Judge, Chennai.

Order in

C.R.P.(PD) No.3098 of 2016

Dated: 20.10.2016