

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.04.2016

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

CRP (PD)No.4388 of 2010

and

M.P.No.1 of 2010

1.R.Ravindran
2.R.Kiruba
3.R.Uma

.. Petitioners

Vs.

1.V.Revathi
2.A.Sangeetha
3.V.Chandrasekaran
4.R.Santhi

..Respondents

Prayer:- Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 30.09.2010 in I.A.No.413 of 2009 in O.S.No.62 of 2007 before the District Munsif Court, Mannargudi.

For Petitioners : Ms.R.Meenal

For Respondents : Ms.P.T.Ramadevi

ORDER

This Civil Revision Petition has been filed praying to set aside the fair and decreetal order dated 30.09.2010 passed in I.A.No.413 of 2009 in the suit in O.S.No.62 of 2007 on the file of the District Munsif Court, Mannargudi.

2. The fourth respondent/the plaintiff filed the suit in

O.S.No.62 of 2007 before the District Munsif Court, Mannargudi, praying to dissolve the partnership firm, and to submit their accounts into Court.

3. The revision petitioners herein are the defendants 4 to 6 in the suit in O.S.No.62 of 2007 whereas the respondents herein are defendants 1 to 3 and the plaintiff.

4. According to the learned counsel for the petitioners, The second revision petitioner/fifth defendant filed a written statement in the suit in O.S.No.62 of 2007 before the District Munsif Court, Mannargudi on 02.07.2007. Thereafter, an additional written statement was also filed by the second revision petitioner/fifth defendant in the suit on 31.03.2008. In the meantime, respondents 1 to 3/defendants 1 to 3 were set *ex parte*. The case was posted for trial. Thereafter, Interlocutory Applications in I.A.Nos.280 and 281 of 2009 came to be filed by the respondents 1 to 3/defendants 1 to 3, to reopen the case and to receive documents. Though the said Interlocutory Applications were not maintainable on the ground of laches, the learned District Munsif, Mannargudi, allowed the Interlocutory Applications in I.A.Nos.280 and 281 of 2009 on condition of payment of costs of Rs.100/- in each Applications on or before 27.08.2009. However,

the cost was not paid by the respondents 1 to 3/defendants 1 to 3. Therefore, I.A.No.413 of 2009 in O.S.No.62 of 2007 was filed by the respondents 1 to 3/defendants 1 to 3 before the District Munsif Court, Mannargudi, seeking to extend the time for payment of costs and the same was allowed by order dated 30.09.2010. Aggrieved by the order dated 30.09.2010 passed in I.A.No.413 of 2009 in O.S.No.62 of 2007 by the District Munsif Court, Mannargudi, the revision petitioners/defendants 4 to 6, filed this Civil Revision Petition.

5. On the other hand, the counsel for the respondents 1 to 3 has submitted that they made an attempt to pay the cost of Rs.100/- each as per the order passed in I.A.Nos.280 and 281 of 2009 to the learned counsel for the revision petitioners/defendants 4 to 6, before the Court below. However, the learned counsel for the defendants 4 to 6 refused to receive the said amount. Therefore, the respondents have taken steps to deposit the cost by way of filing lodgment schedule before the District Munsif Court, Mannargudi. As the process took some time, the respondents 1 to 3 had to file I.A.No.413 of 2009 seeking extension of time for payment of costs and the same was allowed. Aggrieved over the same, the present Civil Revision Petition has been filed by the revision petitioners/defendants 4 to 6.

6. Heard Ms.R.Meenal, learned counsel appearing for the revision petitioners and Ms.P.T.Ramadevi, learned counsel appearing for the respondents.

7. It appears that the respondents 1 to 3/defendants 1 to 3 offered to pay the costs by way of presenting memo to the learned counsel for the defendants 4 to 6 pursuant to the order passed in I.A.Nos.280 and 281 of 2009 but the revision petitioners/defendants 4 to 6 refused to receive the costs. Therefore, they filed lodgment schedule for depositing the same before the Trial Court. As the costs imposed could not be paid within the stipulated time, they filed the instant application in I.A.No.413 of 2009 to extend the time for the payment of costs and the same was allowed by order dated 30.09.2010. These facts cannot be disputed by the learned counsel for the revision petitioners.

8. It is also admitted that the Application in I.A.No.413 of 2009 filed by the respondents 1 to 3 was belated and that too at the stage where the trial has commenced. In the facts and circumstances of the case and to meet the interest of justice, this Court deems it fit to enhance the costs already imposed by the trial Court.

9. Accordingly, this Court is inclined to pass the following order:-

(i) The respondents 1 to 3 are directed to pay costs for a sum of Rs.5,000/- (Rupees five thousand only) to the revision petitioners instead of a total sum of Rs.200/-as ordered by the Trial Court in I.A.Nos.280 and 281 of 2009.

(ii) The above costs shall be paid by the respondents 1 to 3 to the revision petitioners within a period of 10 days from today, failing which, the defendants 1 to 3 will be treated as set *exparte* and the trial will proceed.

(iii) The Trial Court is directed to dispose of the Suit in O.S.No.62 of 2007 within a period of three months from the date of receipt of copy of this order.

10. With the above directions, the Civil Revision Petition is disposed of. Consequently, connected miscellaneous petition is closed. No order as to costs.

Index : yes / no

12.04.2016

gv/asvm

D.KRISHNAKUMAR,J

Gv/asvm

**Note:
Issue Order Copy
on 15.04.2016.**

To

The District Munsif Court,
Mannargudi.

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