

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CIVIL REVISION PETITION No.5239 of 2015

ORDER :

Impugning the order of the lower Court in dismissing the application to restore the suit O.S. No.69 of 2007 vide I.A. No.658 of 2008, dated 17.06.2010, the revision is maintained.

2) Heard both sides and perused the material on record.

3) No doubt, there is some justification to the lower Court in dismissing the suit for default for the opportunity not availed in getting adjournments by the plaintiff. However, there is a justifiable reason for the non-appearance on the particular day which shows due to the heavy downpour rain at Tamilnadu, he could not attend.

4) In view of the above, the lower Court should have been allowed the application instead of dismissing atleast by heavy costs. Having regard to the above and in the result, the revision is allowed subject to payment of costs of Rs.4,000/- payable directly to the defendants or their respective counsel before the lower Court equally and also subject to condition of filing of the chief affidavit of the plaintiff and presence before the Court within 15 days from the date of receipt of the order that too by serving copies of chief-affidavit to the defendants counsel. It is made

clear that in the event of any of the defendants not chosen to receive the costs, the same can be deposited to the District Legal Services Authority of the district concerned by virtue of this order.

5) Miscellaneous petitions, if any pending, shall stand closed. There shall be no order as to costs.

Dr. B. SIVA SANKARA RAO, J

30.08.2016

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