

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN

Civil Revision Petition No.1127 of 2018

Order:

The plaintiff in a suit has come up with the above civil revision petition challenging the action of the Trial Court in refusing to number an application under Order IX, Rule 9 CPC.

2. Heard Mr. B.V.S.S. Balakrishna Ranjit, learned counsel for the petitioner.

3. The suit O.S.No.368 of 2011 filed by the revision petitioner was for permanent injunction restraining the defendants from interfering with the plaintiff's peaceful possession and enjoyment of the plaint schedule Auto Rickshaw. On 09-10-2017, the suit was dismissed on a Memo filed by the counsel for petitioner/plaintiff that the matter was settled out of Court.

4. Contending that the counsel did not have the authorisation to file such a Memo, the petitioner filed an application under Order IX, Rule 9 CPC for restoration of the suit. A suit which was dismissed for non-prosecution alone can be restored under Order IX, Rule 9 CPC and a suit that was dismissed as settled out of Court cannot be restored under Order IX, Rule 9 CPC. Therefore, the Trial Court did well in refusing to number the application. Hence, the civil revision petition is dismissed. The miscellaneous petitions, if any, pending in this revision shall stand closed. No costs.

V.RAMASUBRAMANIAN, J.

15th March, 2018.

Ak

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN

Civil Revision Petition No.1127 of 2018



15th March, 2018.
(Ak)