

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 25.02.2019

CORAM

THE HONOURABLE Ms.JUSTICE P.T.ASHA

CRP.No.155 of 2019

and

C.M.P.No.1335 of 2019

1.K.M.Gunasekaran
2.K.M.Muruganandam

.. Petitioners/Defendants

Vs

1.Kalavathy
2.Jagada Prabhu
3.J.Mohanasundaram

.. Respondents 1 to 3/Plaintiffs 1 to 3

4.K.M.Gunavathy
5.Prabhakaran

.. Respondent 4&5 / Defendants 3&4

Civil Revision Petition filed under Article 227 of the Indian Constitution against the petition and docket order dated 02.06.2015 made in I.A.No.18695 of 2013 in O.S.No.1351 of 2011 on the file of XVI Assistant City Civil Court, Chennai.

For Petitioners : Mr.K.Sukumaran
For R1 to R3 : Mr.A.V.Sivaprakasam
For R4 & R5 : No appearance

ORDER

The above application is filed challenging the order passed in I.A.No.18695 of 2013 in O.S.No.1351 of 2011, which was an order passed as a sequel to the earlier order dated 20.04.2015, in and by which, the defendants were permitted to file Additional Written Statement on condition that, a cost of Rs.500/- be paid on or before 02.06.2015, it is submitted across the bar, that the conditional order was not made known by the junior to the senior and as a result, they were unaware that the application was allowed on condition of payment of the sum of Rs.500/-. Consequently, since the condition earlier order had not been complied with the dismissed by an order, dated 02.06.2015 and this fact came to the knowledge of the defendants/revision petitioners only when the trial had started. It appears to be a genuine mistake where there has been an oversight and the party should not be made to suffer on account of this omission. Though the learned counsel for the respondent has vehemently opposed this petition however considering the

genuine oversight this Court is not considering the objection.

2 Today, the learned counsel for the revision petitioner/ defendant has complied with the order dated 20.04.2015 by paying the amount directly to the learned counsel for the plaintiff/respondent, who has also received the same. The order dated 20.04.2015 granting leave to the petitioners to file Written Statement is restored to file and the Additional Written Statement is directed to be taken on file by the learned XVI Assistant City Civil Judge, Chennai.

3 The revision petitioner is directed to file the Additional Written Statement on or before 13.03.2019. It is represented by both counsel that the suit is in the argument stage. The learned Judge is directed to dispose of the suit from this stage within a period of one month from the date of the Additional Written Statement being filed.

4 With the above directions the this Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

The XVI Assistant Judge, City Civil Court,
Chennai.

+1cc to Mr.K.Sukumaran, Advocate, S.R.No.17175

+1cc to Mr.M.A.Sivaprakasam, Advocate, S.R.No.17413

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RR(CO)
GSP(26/02/2019)

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