

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.10.2019

CORAM

THE HON'BLE MR.JUSTICE R. SURESH KUMAR

C.R.P.No.2603 of 2018
and C.M.P.No.15617 of 2018

P.Damodharan

... Petitioner

-Vs-

1.P.Delliraman
2.V.Shankar
3.P.Selvakumar
4.P.Munisamy

... Respondents

Prayer : Civil Revision Petition under Article 227 of the Constitution of India against the fair and decreetal order dated 17.08.2017 in I.A.No.53 of 2017 in A.S.No.Nil of 2017 on the file of the Principal District Court at Vellore.

For Petitioner : Mr.V.Anthony Elangovan
For Respondents : Mr.Durai Gunasekaran

O R D E R

This revision has been filed against the fair and decreetal order dated 17.08.2017 in I.A.No.53 of 2017 in A.S.No.Nil of 2017 on the file of the Principal District Court at Vellore.

2. Originally, the suit was filed by the respondents herein for declaration / permanent injunction and for delivery of possession of the suit property and the suit was dismissed on 05.12.2016, against which the respondents had preferred an appeal before the first appellate Court. However, the said appeal has been preferred with a delay of 30 days and in order to condone the said delay, the respondents filed I.A.No.53 of 2017 and the said I.A., was allowed, through the impugned order, as against which the present revision petition has been filed by the petitioner / defendant.

3. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents.

4. I have gone through the reasons given by the learned Judge in allowing the application, which is impugned herein and

the learned Judge, having gone through the reasons given by both sides, allowed the said I.A., on the ground that, unless the said I.A., is allowed, the substantive right of the party ie., the appellant in the appeal suit would get defeated and therefore, the said I.A., was allowed on terms at a cost of Rs.2,000/- ie., Rs.1000/- to each of the respondent therein.

5. After having gone through the impugned order and after hearing the learned counsel for both sides, I find absolutely no infirmity in the said order. As has been rightly pointed by the learned Judge, the substantive right of the party shall not be defeated on technicalities and moreover, in the present case, the delay is not very huge and only 30 days and that too, it was allowed on terms. Therefore, the revision petitioner cannot have any grievance.

6. Assuming that the cost awarded by the Court below may not justifiable or commensurate to the prejudice to the revision petitioner and for all this time, the revision has been pending here from 2018, this Court feels that, in the interest of justice, the revision petition can be dismissed, however, at the same time, the respondents can be directed to pay enhanced costs over and above the costs awarded by the first appellate Court.

7. In the result, the respondents are hereby directed to pay a sum of Rs.4,000/- ie., Rs.2,000/- each to the respondents therein, in the Court below, as additional costs, for allowing the said I.A., through the impugned order. With the above modification, the order passed by the learned first appellate Court allowing the I.A., is to be sustained. In result, the civil revision petition fails and the same is dismissed. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

KST

Sub Assistant Registrar

To

1) The Principal District Judge, Vellore.

+1 cc to Mr.Durai Gunasekaran, Advocate, S.R.No.88346

C.R.P. No.2603 of 2018

KJI (CO)

SSM(22/11/2019)