



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:25.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRP. (MD) .No.1575 of 2012 (PD)

V.Arumugam

.. Petitioner

Vs.

1. D.Veerammal
2. Thirumalaisamy
3. Sakthiadivel

.. Respondents

PRAYER: This Petition filed under Section 115 of the Code of Civil Procedure to set aside the fair and decreetal order dated 23.02.2012 passed by the learned Sub-Ordinate Judge at Palani in I.A.No.701 of 2011 in I.A.No.339 of 2011 in O.S.No.220 of 2008.

For Petitioner : Mr.N.Anantha Padmanaban

For Respondents : Mr.R.Vijayakumar

O R D E R

This Civil Revision Petition has been filed against the fair and final order passed by the Court below, dismissing the application filed under Order 9 Rule 9 of the Civil Procedure Code for restoration of the suit.

2. The petitioner is the plaintiff in the suit. It is seen from the records that a suit was filed in the year 2008 and it was dismissed for default on 11.08.2009. An application was filed in I.A.No.374 of 2009 for restoration of the suit and the same was allowed on payment of cost of a sum of Rs.500/-. This cost was not paid in time. However, since it was paid immediately, the suit was again restored on file.

3. The suit was again dismissed for default on 21.03.2011 and one more application came to be filed for restoration of the suit. This application was dismissed for not taking steps to prosecute the application and hence, the present Civil Revision Petition has been filed.

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

5. Taking into consideration the facts and circumstances of the case and also considering the fact that the substantial right of the plaintiff is involved and he must be given one last opportunity



to prosecute the suit on merits, this Civil Revision Petition is allowed, by imposing certain conditions;-

"The petitioner is directed to pay a cost of Rs.5,000/- (Rupees Five Thousand only) to the respondent, within a period of four weeks from the date of receipt of copy of this order. On such payment of cost, the petitioner shall file a memo along with the acknowledgement and the suit shall be restored on file. Thereafter, the suit shall be disposed of within a period of four months thereafter."

6. If the petitioner fails to pay the cost within time stipulated by this Court, the order passed by the Court below shall stand restored and the order dismissing the suit for default will stand confirmed.

7. This Civil Revision Petition stands disposed of with the above directions. No costs.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

Sub Assistant Registrar(CS)

tsg

To

1. The Sub Ordinate Judge, Palani
2. The Record Keeper,
Madurai Bench of Madras High Court,
Madurai. (2 COPIES)

+1CC TO MR.R.VIJAYAKUMAR, Advocate Sr. No. 94720

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GRL(CO)

TR(12.11.2019) 2P 5C