



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.11.2019

CORAM:

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CRP PD(MD)Nos.1755 of 2012

and

M.P.(MD)Nos.1 of 2012

Seeniammal ... Petitioner/Petitioner/Plaintiff

Vs.

Murugesan ... Respondent/Respondent/Defendant

PRAYER: This petition is filed under Article 227 of Civil Procedure Code, against the order dated 30.04.2012 passed in I.A.No.60 of 2012 in O.S.No.35 of 2009, on the file of the District Munsif of Sattur, insofar as the Award of costs is concerned.

For Petitioner : Ms.Jessi Jeevapriya

For Respondent : No Appearance

O R D E R

This Civil Revision Petition has been filed against the dismissal of the application filed under Order VI, Rule 17 of CPC., by virtue of the non-payment of the costs imposed by the Court below within the time stipulated by the Court.

2. The petitioner is the plaintiff and she filed a suit against the respondent seeking for the relief of bare injunction. The petitioner filed an application for amendment of the plaint to correct the survey number, which was wrongly typed as 526 instead of 566. This petition was allowed by the Court below by imposing a cost of Rs.500/-. Since the cost was not paid on time, the petition itself came to be dismissed.

3. The learned counsel for the petitioner submitted that the order was passed on the last working day before vacation and the counsel appearing for the petitioner was not aware about the payment of costs. Therefore, the non-payment of the cost was neither willful nor wanton.

4. The respondent has been served with notice and the name has also been printed in the cause list and there is no representation for the respondent.

5. Taking into consideration of the facts and circumstances of the case, this Court deems it fit to give an opportunity to the petitioner to contest the suit on merits.



6. In the result, the fair and final order passed by the Court below, dismissing the application only on the ground of non-payment of cost, is set aside. The findings rendered by the Court below for allowing the application to amend the plaint is sustained as it is.

7. Accordingly, this Civil Revision Petition is allowed and the petitioner is directed to pay a cost of Rs.1.500/- (Rupees One Thousand and Five Hundred Only) to the respondent or the counsel representing the respondent before the Court below, within a period of two weeks from the date of receipt of a copy of this order and file a memo before the Court below. The Court below shall thereafter allow the amendment of pleadings and proceed further with the case and the suit in O.S.No.35 of 2009 shall be disposed of within a period of three months thereafter. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (writ)

// True Copy //

Sub Assistant Registrar(CS)

MPK

To

The District Munsif
Sattur.

+1 CC to M/s.P. JESSI JEEVA PRIYA, Advocate (SR-97435[F] dated
12/11/2019)

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VB(02.12.2019) 2P 3C