



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 21.10.2019
CORAM

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

CRP(MD).No. 1869 of 2019 and
CMP(MD).No.9572 of 2019

A. Subramanian ... Revision Petitioner/Respondent/defendant

Vs.

T.P. Sivasamy ... Respondent/Petitioner/ plaintiff

PRAYER: This Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decreetal order dated 16.07.2019 passed in I.A.No. 283 of 2017 in O.S.No.256 of 2012 on the file of the Additional Subordinate Judge, Karur.

For Petitioner : Mr.V. Balaji

ORDER

This Civil Revision Petition is filed against the order, dated 16.07.2019 passed in I.A.No. 283 of 2017 made in O.S.No.256 of 2012, on the file of the learned Additional Subordinate Judge, Karur.

2. According to the revision petitioner / defendant, the suit filed by respondent / plaintiff was dismissed for default on 23.03.2017. On the next day, the respondent / plaintiff has filed an application to set aside the ex parte order in I.A.No. 283 of 2017, wherein he has stated in affidavit at paragraphs No.4 and 5 are as follows:

"4. On 23.03.2017, I have filed a petition to amend the plaint in the about suit.

5. When this Honourable Court called my case bundle my counsel presented the petition for amending the plaint. The above case paused by this Honourable Court for necessary order in the amendment petition."

3. The learned counsel appearing for the revision petitioner would contend that the contention made by the respondent / plaintiff in paragraphs 4 and 5 are totally false averments. Based on the wrong submission made by the respondent before the Court below and without considering the revision



petitioner's objections, the Court below allowed the application for restoration of the suit filed by the respondent. Therefore, he contended that false averments should be viewed seriously and further appropriate orders may be issued to the Court below to find out the fact whether the amendment petition was filed or not.

WEB COPY 4. I have heard the learned counsel appearing for the revision petitioner and perused the materials available on record.

5. Admittedly, the respondent has filed restoration petition on the very next day of the dismissal of the suit for default, if an amendment petition was filed before the office of the Court below, there is no chance for the Court to aware of the same. This Court is of the view that in order to give an opportunity to the respondent herein to contest the case, the Court below restored the suit. When the suit was restored, the Court below has not provided any finding with regard to the averments made in paragraph Nos. 4 and 5. However, it appears, after considering the averments made in paragraph Nos. 4 and 5 and also considering the objection raised by the revision petitioner before the Court below, the Court below restored the suit. Therefore, I do not find any reason to interfere with the order passed by the Court below. Hence, this Civil Revision petition is liable to be dismissed and accordingly, dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

Trp

To

The Additional Subordinate Judge, Karur.

+1 CC to Mr.V.BALAJI, Advocate (SR-93469[F] dated 22/10/2019)

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MK (02.12.2019) 2P 3C