

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2020

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

C.R.P.No.109 of 2020

Annai Builders and Real Estates Pvt. Ltd.,
Rep. by its Managing Director,
Mr.T.Narayanan,
No.158, 76 Medavakkam Main Road,
Madipakkam, Chennai - 91.

.. Petitioner

Vs.

1. Elred Kumar
2. Shanmugam
3. Arthi Print House rep by its Proprietor,
Mr.Ramesh Babu S/o.Pedda Subbiah,
No.20, Pooram Prakash Road,
Balaji Nagar, Royapettah,
Chennai - 600 014.
4. The UCO Bank rep. by its
Authorised Officer,
No.328, Thambu Chetty Street,
Chennai - 600 001.

... Respondents

Prayer: Civil Revision Petition has been filed under Section 115 of C.P.C. to set aside the fair and decreetal order passed in I.A.No.711 of 2011 in O.S.No.33 of 2007 on 01.10.2019 by the learned District Judge, Chengalpet.

For Petitioner : Mr.M.Chinnaswamy
For Respondents 1 : Mr.V.Sanjeevi

सत्यमेव जयते
O R D E R

Revision has been filed against the order dismissing the application for non payment of cost.

2. Petitioner is the plaintiff in the suit. The suit was filed for declaration and consequential permanent injunction and earlier the suit was dismissed for default. Thereafter, the petitioner filed an application to restore the suit with the delay of 728 days. The Court below allowed the application to condone the delay in filing on condition that the petitioner pays Rs.10,000/- as costs on or before 30.09.2019, failing

which, the application will stand automatically dismissed. According to the petitioner, since the learned counsel appearing for the petitioner failed to note down the conditional order, amount could not be paid in time, hence, the application stands dismissed. Now, challenging the same, present revision has been filed.

3. I have heard the learned counsel appearing for the parties and also perused the records carefully.

4. Already the Court below has condoned the delay on payment of costs. According to the learned counsel appearing for the petitioner, due to oversight, the learned counsel failed to note down the conditional order passed by the Court below, and that now he is ready and willing to pay the costs.

5. The learned counsel appearing for the respondents 1 and 2 contended that it is not only the learned counsel but the party is also negligent and deliberately failed to pay the cost in time.

6. Considering the fact that application has been allowed on payment of a sum of Rs.10,000/- and due to non communication of the order to the petitioner by his counsel, the amount could not be paid. In the above circumstances, I am inclined to allow the application on payment of additional cost of Rs.10,000/-. The petitioner is directed to pay the sum of Rs.10,000/- before the trial Court on or before 03.02.2020. The petitioner is further directed to pay a sum of Rs.10,000/- to the Cancer Institute, Adyar, Chennai - 600 020, on or before 03.02.2020. The civil revision petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar(C.O.)

/True Copy/

Sub Assistant Registrar

To

1.The District Judge, Chengalpet.

2.The Cancer Institute, Adyar, Chennai - 600 020

+1cc to Mr.M.Chinnasamy, Advocate Sr.No.5515

AKM/28.01.2020

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