

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

CRP No.712 of 2021
and
CMP No.5951 of 2021

S.Ramani ... Petitioner/Appellant

Vs.

1.M.Kripanandam
2.M.Muniappan ... Respondents/Respondents

PRAYER: Civil Revision Petitions filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 05.11.2019, passed in I.A No.2 of 2019 in I.A No.1 of 2019 in unnumbered A.S.... of 2019 (Sr.No.2933 of 2019) on the file of the Principal District Judge, Salem.

For Petitioner : Mr.Prem Kumar

For Respondents: Mr.S.Kalyanaraman for R1

ORDER

(This case has been heard through video conference)

This Civil Revision Petition has been filed questioning the order dated 05.11.2019 passed in I.A No.2 of 2019 in I.A No.1 of 2019 in unnumbered A.S.... of 2019 (Sr.No.2933 of 2019) by the Principal District Judge, Salem.

2. The interlocutory application in I.A No.2 of 2019 was filed under Section 149 r/w 151 of CPC seeking to extend the time for payment of costs as directed in I.A.No.1 of 2019 which was dismissed on 28.02.2019 for non-compliance.

3. Originally I.A No.1 of 2019 was filed under Order 41 Rule 3(A) of CPC to condone the delay in filing the first appeal. Notice was directed and counter was filed and a conditional order was passed that the delay would be condoned on payment of cost of Rs.500/- on or before 27.02.2019. The said cost was not paid. Therefore, I.A. No.1 of 2019 was dismissed. Thereafter, I.A No.2 of 2019 was filed seeking to extend the time for

payment of costs. The learned Judge examined the issues and refused to extend the time. Questioning that particular order, the present revision petition has been filed.

4. Let me not go deeply to the merits. Let me reiterate that the first appeal is an extension of the original suit. In the original suit and in the appeal suit, the facts are settled. The parties must be given every opportunity to prosecute the original suit and the first appeal. Closing down the opportunity even before the doors are opened, may not be proper. In the interest of justice, I hold some opportunity must be given to pay the cost of Rs.500/-. I therefore interfere with the said order and direct that costs should be paid on or before 03.06.2021. If paid, I.A No.1 of 2019 shall stand automatically allowed and thereafter, A.S.Sr.No.2933 of 2019 may be taken up for numbering if it is otherwise in order.

5. With the above observation, this Civil Revision Petition is allowed. Consequently, connected Miscellaneous Petition is closed. No order as to cost.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

uma
To

The Principal District Judge, Salem

+1 CC to Mr.S. Kalyanaraman, Advocate sr 25251.

CRP No. 712 of 2021
and CMP No.5951 of 2021

RSI (CO)
SP(01/07/2021)

WEB COPY