



C.R.P.(PD).No.2413 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P.(PD).No.2413 of 2021

and

C.M.P.No.18355 of 2021

A.Abdul Nabi

.. Petitioner

Vs.

1.Dharmanavatheeran @ Neil Naveen
Represented by POA R.Prabakaran
2.M.Subramani

3.The sub-Registrar,
Sub-Registrar's Office,
Jolarpet, Vellore District.

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order dated 11.08.2021 in I.A.No.1 of 2020 in O.S.No.110 of 2010 on the file of Additional District Munsif, Tirupattur.



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For Petitioner : Mr.PA.Sudesh Kumar

ORDER

Challenge in this Revision is to the order of the learned Additional District Munsif, Tirupattur allowing the application in I.A.No.1 of 2020 seeking restoration of the suit.

2. The suit is one for declaration of title and for consequential injunction. The plaintiff who is living abroad is represented by the power agent. The suit came to be dismissed for default on 25.11.2019. Within the time allowed i.e., on 18.12.2019, an application was filed seeking to restore the suit. The reason assigned for the absence on that date was that the petitioner had to go back to United States on 20.11.2019 and hence he was unable to appear on 25.11.2019. Therefore, according to the 1st respondent, the absence is neither willful nor want on. The application was opposed on the ground that the plaintiff being represented by the power agent cannot seek restoration on his own. The learned District Munsif considering the



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reasons assigned for the absence on 25.11.2019, allowed the application and restored the suit.

3. I have heard Mr.PA.Sudesh Kumar, learned counsel appearing for the petitioner.

4. Mr.PA.Sudesh Kumar would vehemently contend that the plaintiff is still a resident of United States and even if the suit is restored, he will not be in a position to persuade the trial.

5. That cannot be a ground for dismissing the application for restoration. The learned trial Judge has rightly exercised the discretion vested in her by accepting the reasons assigned for the absence on the fateful day and has chosen to restore the suit.

6. I do not see any illegality or irregularity in the order passed by the learned trial Judge. The Revision therefore fails and is accordingly dismissed. No costs. Consequently, the connected miscellaneous petition is



closed.

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Index : No

Internet : Yes

Speaking order



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To

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The Additional District Munsif, Tirupattur.



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R.SUBRAMANIAN, J.

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