



WEB COPY



CRP.No.1367 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

CRP.No.1367 of 2019

S.Ananthan

... Petitioner

Vs.

A.Kathirvel

... Respondent

**PRAYER:** Civil Revision petition is filed under Article 227 of the Constitution of India praying to set aside the fair and decreetal order made in IA.No.205 of 2018 in IA.No.157 of 2018 in OS.No.56 of 2018 decree dated 05.02.2018 on the file of the Additional District (Fast Court) Court, Mettur by allowing this civil revision petition.

For Petitioner : Mr.D.Lakshmipathy

For Respondent : No appearance

### **ORDER**

This civil revision petition has been filed to set aside the fair and decreetal order made in IA.No.205 of 2018 in IA.No.157 of 2018 in OS.No.56 of 2018 dated 05.02.2018 on the file of the Additional District (Fast Court) Court, Mettur, thereby dismissed the application filed for restoration of the suit.



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Heard, Mr.D.Lakshmipathy, the learned counsel for the petitioner.

Though notice was served, no one appeared on behalf of the respondent before this Court in person or through pleader.

3. The petitioner is the plaintiff in the suit filed for recovery of money as against the respondent. When the suit was posted for trial, the petitioner was absent and as such, the trial court dismissed the suit for default on 04.10.2018. In order to restore the suit, the petitioner filed application under Order 9 Rule 9 of CPC on 06.10.2018 itself in IA.No.157 of 2018, in which the trial court ordered notice and directed the petitioner to pay batta within three days. However, the petitioner failed to pay any batta for issuance of notice to the respondent herein. Therefore, the said application was dismissed by the court below.

4. Considering the above facts and circumstances of the case, the petitioner may be given one more opportunity to pursue his suit since the suit is for recovery of money. In view of the same, the fair and decreetal order made in IA.No.205 of 2018 in IA.No.157 of 2018 in OS.No.56 of 2018 dated



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05.02.2018 on the file of the Additional District (Fast Court) Court, Mettur is set aside and this civil revision petition is allowed on condition that the petitioner shall pay batta within a period of three days from the date of receipt of the copy of the order. There shall be no order as to costs.

13.12.2022

Index :Yes/No

Internet : Yes/No

Speaking order/non-speaking order

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**G.K.ILANTHIRAIYAN, J.**

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To  
The Additional District (Fast Court) Court,  
Mettur

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