



C.R.P(NPD).No.1979 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.06.2022

CORAM :

THE HONOURABLE MS. JUSTICE R.N.MANJULA

C.R.P.(NPD).No.1979 of 2022
and C.M.P.No.10125 of 2022

A/m.Renganathaswamy Thirukoil
Rep. by its Executive Officer
Thiruneermalai,
Chennai- 600 044.

... Petitioner

..Vs..

S.Sivagnanam

... Respondent

Prayer:- Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the Docket Order dated 05.04.2022 in I.A.No.1/2022 in O.S.No.290/2012 on the file of the Additional District and Sessions Judge, Chengalpattu with reference to the cost being payable from out of the salary of the Commissioner, H R & C E Department.



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For Petitioner : Mr.Sriram
for M/s.A.S.Kailasam and Associates

ORDER

This Civil Revision Petition has been preferred challenging the Docket Order dated 05.04.2022 made in I.A.No.1 of 2022 in O.S.No.290 of 2012 passed by the Learned Additional District and Sessions Judge, Chengalpattu.

2.The Revision Petitioner is the Plaintiff in the suit who has filed the suit against the Respondent for the relief of declaration and permanent injunction. The Respondent/Defendant remained exparte and the case was posted for exparte evidence. Since, the Plaintiff did not appear, the suit was dismissed for default on 09.08.2021. Later when the petition filed to set aside the said order and restore the suit was filed in I.A.No.1/2022, the same was allowed on the following terms:

"In the result, this petition is allowed on payment of minimum cost of Rs.50/- to be paid to District Legal Services Authority, Chengalpattu and cost is to be paid out of the



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Salary of the Commissioner, HR & CE, Government of Tamil Nadu on or before 4.4.2022 and also direct that the Chief Secretary shall file an affidavit on 05.04.2022 that an amount of Rs.50/- is deducted from the salary of the Commissioner, HR & CE, failing which this petition shall stand dismissed. Call on 05.04.2022."

3. Aggrieved over that, the revision petitioner has preferred this revision.

4. Heard the learned counsel appearing for the Petitioner.

5. In the aforesaid order the learned Trial Judge imposed a condition for payment of costs of Rs.50/- from the salary of the Commissioner HR & CE and it is ordered to be deducted from his salary. The suit filed by the Revision Petitioner on behalf of HR & CE is represented by its Executive Officer. However, the learned Trial Judge has chosen to impose a condition for payment of costs on the Commissioner HR & CE and it is further added that the compliance report should be filed in the form of an affidavit by the Chief Secretary of



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Tamil Nadu. The order on the face of it is perverse. The Government authorities who are not parties to the proceeding ought not to have been harassed unnecessarily. Even on their failure to appear, before taking any coercive action, they should be put under notice. The authority who has filed the suit is only a representative for HR & CE and hence the suit is filed in a representative capacity and not in the personal capacity. Despite the petition is allowed, a compulsion is placed on the Commissioner HR & CE and the Chief Secretary Tamil Nadu, who did not represent the suit.

6. Since it is reliably learnt that the cost of Rs.50/- has been paid by the Petitioner herein to the Legal Services Authority, that should be considered as the compliance and consequently the petition should be allowed.

7. In the result, this Civil Revision Petition is disposed of and the order of the learned Additional District and Sessions Judge, Chengalpattu



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is modified to the effect that the Petition in I.A.No.1 of 2022 in O.S.No.290/2012 is allowed on payment of cost of Rs.50/- by the Petitioner to the Legal Services Authority. Since the cost has already been paid, the compliance is also recorded. No costs. Consequently, connected Miscellaneous Petition is closed.

29.06.2022

arr

Index:Yes No

Speaking Order:Yes/No

To

1. The Additional District and Sessions Judge,
Chengalpattu.

2.The Section Officer,
VR Section, Madras High Court,
Chennai.

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R.N.MANJULA,J.

arr

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