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CRP.No.3391 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.10.2022

CORAM:

**THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI**

CRP.(NPD)No.3391 of 2019

and

C.M.P.No. 22238 of 2019

Anandan

... Petitioner

Versus

Annadurai

...Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order, dated 15.03.2019 passed in I.A.No.653 of 2018 in O.S.No.102 of 2016 on the file of Additional District Munsif, Villupuram.

For Petitioner : Mr.T.K.Kulasekaran

For Respondent : No Appearance

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### **ORDER**

This Civil Revision Petition has been filed seeking to set aside the fair and decreetal order, dated 15.03.2019 passed in I.A.No.653 of 2018 in

O.S.No.102 of 2016 on the file of Additional District Munsif Court,



Villupuram.

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2. The revision petitioner is the defendant and the respondent is the plaintiff in the original suit.

3. The respondent/plaintiff filed the suit in O.S.No.102 of 2016 before the Additional District Munsif Court, Villupuram, for declaration and permanent injunction in respect of the suit property. During the pendency of the suit, the respondent/plaintiff filed I.A.No. 653 of 2018 under Order 23 Rule 1 read with Section 151 of the Civil Procedure Code, seeking permission to withdraw the case filed against the defendant. After perusing the records, the Court below passed an order dated 15.03.2019 allowing the said application. Challenging the impugned order passed by the Court below, the revision petitioner has filed this revision.

4. The learned counsel appearing for the petitioner/defendant submitted that after completion of the trial, the interlocutory application has been filed by the respondent/plaintiff to withdraw the suit and the same was not permissible and the Court below erroneously allowed the



application with costs. Therefore, he prays to allow this civil revision petition.

5. None appeared on behalf of the respondent.

6. On a perusal of the records, it reveals that the respondent/plaintiff filed the suit in O.S.No.102 of 2016 before the Additional District Munsif Court, Villupuram, for declaration and permanent injunction. The petitioner/defendant filed written statement in the suit, issues have already been framed, trial has also commenced and PW1 was examined as well as DW1 was also examined and cross-examination of the witnesses have also been completed. When DW2 was being cross examined, at that time, the respondent/plaintiff filed I.A.No.653 of 2018 under Order 23 Rule 1 of CPC., seeking permission to withdraw the case filed against the defendant in the original suit and the said application was allowed by order dated 15.03.2019 with costs. Aggrieved by the said order, the present revision has been filed by the petitioner.



7. It is also seen that after completion of the trial, the respondent/plaintiff filed an application seeking permission to withdraw the original suit. But the contention of the respondent/plaintiff is that the aforesaid suit has mistakenly filed by him before the Court below and as such, the same is not acceptable one. Hence, this Court is inclined to set aside the impugned order passed by the Court below, dated 15.03.2019.

8. Accordingly, the Civil Revision Petition is allowed. The impugned order dated 15.03.2019 passed in I.A.No.653 of 2018 in O.S.No.102 of 2016 by the learned Additional District Munsif, Villupuram, is hereby set aside. Further, the Court below is directed to dispose of the suit in O.S.No.102 of 2016 on the file of Additional District Munsif Court, Villupuram, within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

**19.10.2022**

msm  
Speaking Order : Yes/No  
To

The Additional District Munsif,  
Villupuram.



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**T.V.THAMILSELVI, J.**

msm

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