



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :03.03.2022

CORAM:

THE HONOURABLE MRS. JUSTICE S.ANANTHI

C.R.P(MD) .No.1928 of 2021

and

C.M.P(MD)No.10384 of 2021

Santhi

...Petitioner/1st Respondent/1st Defendant

Vs.

1. Kannan

...1st Respondent/Petitioner/Plaintiff

2. The Commissioner,
Devkottai Municipality,
Devakottai,
Sivagangai District.

...2nd Respondent/2nd Respondent/
2nd Defendant

PRAYER : This Civil Revision Petition is filed under Section 227 of the Constitution of India, to call for the records relating to the fair and decreetal order dated 25-10-2021 passed in I.A.No.09 of 2021 in O.S.No.74 of 2017, on the file of the District Munsif, Devakottai.

For Petitioner : Mr.V.R.Shanmuganathan
For Respondents : No Appearance

O R D E R

This Civil Revision Petition has been filed to set aside the fair and decreetal order dated 25-10-2021 passed in I.A.No.09 of 2021 in O.S.No.74 of 2017 on the file of the District Munsif, Devakottai.

2.I.A.No.09 of 2021 was filed by the first respondent/plaintiff under Order 23 Rule 1 r/w Section 151 of Civil Procedure Code for withdrawal of suit. The trial Court discussed the judgment of the Hon'ble Supreme Court in the case of **Anil Kumar Singh Vs.Vijay Pal Singh** reported in **(2018) 12 SCC 584**. But no reason has been assigned by the trial Court to give liberty to withdraw the case to the first respondent/plaintiff. When a plaintiff files an application for simple withdrawal of suit under sub-rule (1), he does so as a matter of his right and the defendant cannot compel the plaintiff to prosecute the suit. But, if the Court decided to file



a fresh suit all the objection raised by the revision petitioner has to be considered and pass orders on merits. In I.A.No.09 of 2021, the learned District Munsif, Devakottai, has not considered any of the objection of the revision petitioner.

3. Therefore, the Civil Revision Petition is disposed of and the fair the decreetal order dated 25.10.2021 made in I.A.No.09 of 2021 in O.S.No.74 of 2017 passed by the learned District Munsif, Devakottai is hereby set aside. Accordingly, the case is remitted back to the learned District Munsif, Devakottai for fresh consideration. The learned Judge is directed to consider the objection raised by the revision petitioner and to decide the matter. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

vsd

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

The District Munsif,
Devakottai.

COPY TO:-

The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court, Madurai. (2 Copies)

+1 CC to M/s.VR.SHANMUGANATHAN, Advocate (SR-9937[F]
dated 04/03/2022)

+1 CC to M/s.J.ANANDKUMAR, Advocate (SR-10453[F] dated 07/03/2022)
C.R.P(MD) .No.1928 of 2021
and
C.M.P(MD) No.10384 of 2021
03.03.2022

KS (CO)

GC(12.04.2022) 2P 6C

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