



WEB COPY



CRP.No.1009 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.04.2023

CORAM:

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CRP.No.1009 of 2023 and
CMP.No.7350 of 2023

Suresh Kumar D.Kohar

... Petitioner

Vs.

V.R.Gunasekaran

... Respondent

PRAYER:

Civil Revision petition is filed under Article 227 of the Constitution of India to call for the records in and connected with unnumbered IA.No. /2023 in IA.No.205/2019 in OS.No.303 of 2008 on the file of District Munsif, Chengalpattu order dated 03.01.2023 and revise the same by setting aside the said order.

For Petitioner : Mr.Shravan Kochar

ORDER

The petitioner is the defendant in the suit OS.No.303 of 2008 on the file of the District Munif, Chengalpet. The suit was filed by the plaintiff for the relief of declaration and permanent injunction. The revision petitioner



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herein, who is the defendant in the suit, filed IA.No.205 of 2019 to reject the complaint, but the same was dismissed for default as there was no progress on the side of this petitioner. Thereafter he filed application to restore the said application, however there is a delay of 89 days in representing the restoration application and the same was returned by the trial Judge stating that issues were framed and hence application is not maintainable. Furthermore, as per the case status, PW1 was examined in chief and no cross examination of PW1 since because the defendant counsel insisted to restore IA.No.205 of 2019. The trial judge closed the evidence of PW1 and posted the case for further PW's. Now the defendant preferred this revision.

2. The learned counsel for the revision petitioner submits that the petitioner is having valid defence in IA.No.205 of 2019, but due to the non communication from the counsel, the said application was dismissed for default and he took efforts to restore the same, but the trial Judge not accepted and returned the application.

3. On perusal of records, clearly reveals that suit was filed in the year 2008 by the plaintiff for declaration and consequential relief against this petitioner / defendant. He also contested the suit and filed IA.No.205 of 2019



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for rejection of plaint but the same was dismissed for default. Even though there is lethargic attitude on the side of the defendant, the said application ought to be dismissed on merits. Therefore, the application filed by the defendant in IA.No.205 of 2019 is ordered to be taken on file and the same shall be disposed on merits by the trial Judge within one month from the date of receipt of this order. The defendant is also directed to cooperate for the proceedings without getting unnecessary adjournments. Since because the suit was filed in the year 2008, the trial court is directed to dispose of the above application on merits and also conclude the trial proceedings as expeditiously as possible.

4. With the above direction, this civil revision petition is disposed of. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

03.04.2023

Index :Yes/No

Internet : Yes/No

Speaking order/non-speaking order

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T.V.THAMILSELVI, J.



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To

The District Munsif, Chengalpattu

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