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C.R.P.No1644 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.01.2023

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

C.R.P.No.1664 of 2019

E.Govindawamy

.. Petitioner/Petitioner/
Petitioner/Plaintiff

.Vs.

Devendiran

... Respondent/Respondent
Respondent/Defendant

Civil Revision Petition filed under Section 115 of CPC., to set aside the order and decree order dated 18.9.2018 in I.A.No.595 of 2016 in I.A.No.556 of 2015 in O.S.No.269 of 2014, on the file of Subordinate Judge, Ranipet, Vellore District.

For Petitioner : Mr.D.Nandhagopal
for Mr.R.Rajarajan

For Respondent : No Appearance



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ORDER

This Civil Revision Petition has been filed by the plaintiff challenging the fair and final order passed in I.A.No.595 of 2016 in I.A.No.556 of 2015 in O.S.No.269 of 2014, by the Subordinate Judge, Ranipet, Vellore District, dated 18.09.2018, dismissing the application filed for enlarging the time for payment of cost and to restore I.A.No.556 of 2015.

2.The petitioner filed the suit seeing for the relief of declaration and possession. The suit was dismissed for default on 01.10.2015. Hence, the petitioner filed I.A.No.556 of 2015, for restoration of the suit and the said application was allowed with a condition that the petitioner should deposit cost of Rs.500/-. The petitioner did not comply with the condition imposed by the Court below on time and hence, I.A.No.556 of 2015 which was filed for the restoration of the suit was dismissed.

3.The petitioner filed I.A.No.595 of 2016, to restore I.A.No.556 of 2015 and the Court below dismissed the said application on the ground that the petitioner is not showing any interest in prosecuting the case. Aggrieved by the same, this Civil Revision Petition has been filed before this Court.

4.Heard Mr.D.Nandhagopal, learned counsel for the petitioner. The respondent



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has been served and the name of the respondent has also been printed in the cause list.

However, there is no representation on behalf of the respondent either in person or through counsel.

5.The learned counsel for the petitioner submitted that the petitioner was suffering from ailment and that is the reason why he was not able to comply with the conditional order imposed in I.A.No.556 of 2015. The learned counsel submitted that the petitioner is attempting to safeguard the property and has sought for substantial relief of declaration of title and possession and hence, one last opportunity must be given to the petitioner to prosecute the suit.

6.In the considered view of this Court, one last chance can be given to the petitioner to prosecute the suit subject to the petitioner paying the cost imposed by this Court within the time frame.

7.In the result, this Civil Revision Petition is disposed of in the following terms:

(a) The petitioner is directed to pay cost of Rs.2000/- [Rupees Two Thousand Only] to the Tamil Nadu State Legal Services Authority, Chennai, on or before **20.01.2023**.



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(b) If the petitioner pays the cost on time and file a memo before the Court below, the Court below is directed to restore the suit in O.S.No.269 of 204 and proceed further in accordance with law. and ;

(c) If the petitioner fails to deposit the cost imposed by this Court on time, the earlier order passed in I.A.No.595 of 2016 dated 18.09.2018 will stand restored.

06.01.2023

KP

Internet: Yes

Index:Yes/No

Speaking Order: Yes/No



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To

Subordinate Judge
Ranipet
Vellore District.

N.ANAND VENKATESH. J.,



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KP

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