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C.R.P.(PD)No.2369 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.08.2023

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P(PD)No.2369 of 2019
and CMP.No.15434 of 2019

J.Malarvizhi

.. Petitioner

VS

Sathanantham

.. Respondent

Petition filed under Article 227 of the Constitution of India against the docket order dated 03.10.2018 passed by the Principal Subordinate Judge, Thiruvannamalai in I.A.No.491 of 2018 in O.S.No.283 of 2016.

For Petitioner : Ms.M.Preetha
for Mr.M.Rajkumar

For Respondent : Ms.K.Udayaselvi

ORDER

O.S.No.283 of 2016 originally on the file of the learned Principal Subordinate Judge, Tiruvannamalai is a suit for recovery of money of Rs.6,55,002.50/-. The said suit ended in an exparte decree on 13.09.2017. An application was filed to condone the delay in filing the petition to set aside the exparte decree in I.A.No.491 of 2018. The said application was



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allowed by the learned Principal Subordinate Judge, Thiruvannamalai.

The said order was passed on 25.09.2018.

2.The learned Judge allowed it on condition that Rs.1000/- be paid on or before 02.10.2018. Of this Rs.1000/-, Rs.500/- have to be paid to the plaintiff and Rs.500/- has to be deposited with the District Legal Services Authority, Thiruvannamalai.

3.The case of the defendant is that when they attempted to pay the amount to District Legal Services Authority, there was no one in the office and therefore, they were unable to pay the same. Consequently, for non compliance of the condition, the petition came to be dismissed on 03.10.2018. Against which, the present civil revision petition has been presented.

4.Heard Ms.Preetha, learned counsel appearing for the petitioner and Ms.K.Udayaselvi, learned counsel appearing for the respondent.

5.Ms.Udayaselvi would bring to my notice that pending the revision, the defendant had paid the plaintiff a sum of Rs.4,50,000/- in the Execution Proceedings in R.E.P.No.154 of 2018. Apart from that, they have further deposited a sum of Rs.1,00,000/- pursuant to the orders of this Court in the Execution Proceedings. She would very fairly state that a sum of Rs.5,50,000/- has been paid so far out of the claim of



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Rs.6,55,002.50/-.

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6.I have gone through the records and I find that the written statement has also been filed along with the set aside petition and the condone delay petition. The learned trial Judge having exercised his discretion to condone the delay on payment of costs, I do not want to punish the defendant by dismissing the revision.

7.Therefore, the order of the learned Principal Subordinate Judge in condoning the delay on payment of costs of Rs.500/- to the plaintiff is modified to Rs.5,000/- to be paid by the defendant.

8.Ms.Preetha has paid a sum of Rs.5,000/- to Ms.Udayaselvi and she also states that the amount has been received. In other words, the first part of the order has been complied with.

9.Ms.Preetha will also pay a sum of Rs.1,000/- to the Tamil Nadu State Legal Services Authority attached to this Court by 31.08.2023. There is no necessity for the petitioner to produce a receipt from the plaintiff for payment of Rs.5,000/-. Ms.Udayaselvi has agreed that the amount has been received today.

10.Insofar as the Tamil Nadu State Legal Services Authority is concerned, the petitioner/defendant shall produce the receipt before the learned Principal Subordinate Judge, Thiruvannamalai to show that the



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amount of Rs.1,000/- was paid on or before 31.08.2023. On production of the receipt, I.A.No.491 of 2018 will stand allowed. The learned Judge is requested to take up the application under Order 9 Rule 13 of CPC and allow the same and take up the matter for disposal. The suit should be disposed of on or before 30.04.2024.

11.With the above directions, the civil revision petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

24.08.2023

Index:Yes/No

Speaking order/Non-speaking order

Neutral Citation:Yes/No

vs

To

The Principal Subordinate Court,
Thiruvannamalai.



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V. LAKSHMINARAYANAN,J.

VS

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