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C.R.P (PD) No.2810 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.03.2023

CORAM: JUSTICE N.SESHASAYEE

C.R.P (PD) No.2810 of 2019

Jeyaraman

... Petitioner

Vs.

Alexondar

... Respondent

PRAYER: The Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 23.01.2019 made in I.A. No.427 of 2018 in Unnumbered O.S. No.8280 of 2018 on the file of Principal Sub Court, Villupuram.

For Petitioner : Mr.D.Baskar

For Respondent : No Appearance

ORDER

This revision, which in the mind of the court is absolutely avoidable, if only the court below had understood what it was doing.



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2. The plaintiff has laid a suit for recovery of money and the court fee payable was Rs.11,385/-. He presented the plaint on 28.04.2014 and has paid only Rs.1,000/- as court fee. Promptly the suit was returned *inter alia* for payment of deficit court fee on the very day of the filing. 45 days time was granted for the said purpose by the Registry of the trial court. The suit however, was re-presented along with the entire court fee payable, on 22.06.2018. It was 8 days more than 45 days allotted for the said purpose. It was therefore again returned by the Registry on the ground that an application for condonation of delay was not filed for re-presenting the plaint. This application too was filed vide I.A. No.427 of 2018, but that was dismissed by the trial court. The said order of dismissal is now under challenge in this civil revision petition.

3. If the doctrine of *res ipsa loquitur* is applied to appreciate the scope of the order passed by the trial court, then this order will require no elaboration and deliberation to impress the court, that it was passed with inadequate sense of justice. The procedural law is not a rule book of discipline, but a rule book of fairness to promote and advance the cause of justice. The trial court has terribly misconstrued the scope of the procedural law.



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4. I find every reason to interfere with the order of the trial court and allow this revision and set aside the order of the trial court dated 23.01.2019 made in I.A. No.427 of 2018 in Unnumbered O.S. No.8280 of 2018 and allow I.A. No.427 of 2018. The Registry of the trial court is required to take the plaint on to its file, if the papers are otherwise in order, within three days from the date of receipt of a copy of this order.

08.03.2023

Asr

To
The Principal Subordinate Judge, Villupuram

Note to office:

Issue order copy on
13.03.2023



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N.SESHASAYEE, J.,

Asr

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