



C.R.P. No.3196 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :.01.09.2023

CORAM :

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN
C.R.P. No. 3196 of 2023

1.Chinnasamy

2. Palaniyammal

...Petitioners

Versus

Chinnasamy

..Respondent

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order dated 28.04.2023 in I.A.No.1 of 2022 in O.S.No.287 of 2014 on the file of the learned Sub-Ordinate Judge, Dharmapuri, in so far as the condition to commence the Trial by 01.06.2023 and the consequential Order dated 01.06.2023 in I.A.No.1 of 2022 in O.S.No.287 of 2014 on the file of the learned Subordinate Judge, Dharmapuri.

For Petitioners : Mr.R.Selvakumar



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ORDER

This Civil Revision Petition is filed to set aside the order dated 28.04.2023 in I.A.No.1 of 2022 in O.S.No.287 of 2014 on the file of the learned Subordinate Judge, Dharmapuri.

2. The facts of the case are that the petitioners are the owners of the suit property and the respondent herein committed tress-pass into the suit property and damaged the crops worth about Rs.2,70,000/-. Hence, the petitioners have filed a suit in O.S.No.287 of 2014, under Section 26 Order 7 Rule 1 of C.P.C seeking for the relief of declaration and injunction and the same was dismissed for default. Thereafter, the petitioners have filed a petition in I.A.No.1 of 2022 under Order 9 Rule 9 of C.P.C., to restore the suit which was dismissed for default on 30.03.2022 and I.A.No.1 of 2022 was allowed on condition that the petitioners/plaintiffs shall appear and commence the trial on 01.06.2023. However, the plaintiffs could not appear and the I.A.No.1 of 2022 was dismissed. Aggrieved over the dismissal of I.A.No.1 of 2022, the petitioners are before this Court by way of this Civil Revision Petition.



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3. Heard the learned counsel for the petitioners and perused the materials placed on record. There is no representation on behalf of the respondent.

4. On a perusal of records, it is seen that the suit is of the year 2014 which was filed for the relief of declaration and injunction and the same was dismissed for default. Subsequently, I.A.No.1 of 2022 was filed to restore the suit and the same was allowed with a condition to commence the trial on 01.06.2023, however the same was dismissed for non compliance of the conditional order dated 28.04.2023. Hence, the petitioners have preferred this Civil Revision Petition. In order to afford an opportunity to the petitioners to put forth their case, this Court is inclined to interfere with the impugned order by imposing cost.

5. In view of the above, the order dated 28.04.2023 in I.A.No.1 of 2022 in O.S.No.287 of 2014 is set aside on condition that the petitioners shall pay a sum of Rs.20,000/- to the respondent on or before 03.10.2023,



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failing which the petitioners will lose their right to proceed the case further.

6. On such compliance, the learned Subordinate Judge, Dharmapuri is directed to dispose of the suit O.S.No.287 of 2014 on merits and in accordance with law within a period of six months from the date of payment made by the petitioners.

7. With the above directions, this Civil Revision Petition is disposed of.

01.09.2023

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Index : Yes/No

Internet: Yes/No

To.

1. The Subordinate Judge,
Dharmapuri.

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