



WEB COPY



C.R.P.No.3761 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.11.2023

CORAM:

THE HON'BLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.No.3761 of 2023

and

C.M.P.No.23401 of 2023

R.Kalimuthu

... Petitioner

-Vs-

C.Karuppannan

... Respondents

Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and final order dated 19.07.2023 passed in I.A.No.4 of 2023 in O.S.No.402 of 2022 on the file of Principal District Judge, Salem.

For Petitioner : Mr.R.Nalliyappan

ORDER

Challenging the impugned order passed in I.A.No.4 of 2023 in O.S.No.402 of 2022 by the learned Principal District Judge, Salem, the Revision Petitioner/defendant preferred this Civil Revision Petition.



C.R.P.No.3761 of 2023

WEB COPY

2. Since the relief is claimed challenging the order passed by the trial judge, notice to the respondent is dispensed with.

3. Before the trial court, the Revision Petitioner filed an application in I.A.No.4 of 2023 under Order 9 Rule 7 of C.P.C. praying to set aside the exparte order, which was passed against him on 10.11.2022 along with the written statement stating that due to illness, he was not able to meet his counsel and give instructions. That application was dismissed by the trial judge stating that the reasons assigned by him for his non-appearance on that day was not acceptable one, since because he was very much followed the proceedings and at the stage of P.W.1 cross-examination and posted the case for exparte arguments of plaintiff, the defendant filed the said application and no document was adduced to prove his illness. Challenging the said findings, the Revision Petitioner/defendant preferred this Civil Revision Petition.

4. The learned counsel for Revision Petitioner would submit that though he filed an affidavit stating that he suffered with illness, but the same was not considered by the trial judge and erroneously held that to prove his illness, no document was produced. Hence, he prayed to set



C.R.P.No.3761 of 2023

aside the findings of the trial judge.

WEB COPY

5. Records perused. On seeing the fact that now the case is posted for exparte arguments of plaintiff, who filed a suit for recovery of money against the defendant, who is aged about 60 years old. Now, he filed the said application along with the written statement. If opportunity is not given to him, his valuable right to contest the case will be defeated. Therefore, this Court is inclined to allow the application by giving one more opportunity to the defendant to contest the case on condition that the Revision Petitioner shall pay a cost of Rs.3000/- to the respondent within a period of two weeks from the date of receipt of this order and on such payment of cost, the trial judge is directed to take the application on file and dispose the same as per manner known to law. Accordingly, this Civil Revision Petition is allowed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

03.11.2023

Index : Yes/No

Speaking Order : Yes/No

rpp

To



C.R.P.No.3761 of 2023

Principal District Judge, Salem.

WEB COPY

T.V.THAMILSELVI, J.

rpp

C.R.P.No.3761 of 2023

5

03.11.2023