



C.R.P.(MD) No.2115 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.08.2023

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THE HON'BLE **MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI**

C.R.P.(MD) No.2115 of 2023

K.Sivagamiammal

... Petitioner

Vs.

1.G.Raj Kumar

2.M.Arumugam

3.P.Kavitha

... Respondents

Prayer: This Civil Revision Petition filed under Article 227 of the Constitution of India, to call for the entire records pertaining to I.A.No.1 of 2023 in O.S.No. 105 of 2017 on the file of the District Munsif Court, Keeranur and set aside the fair and decreetal order passed therein dated 28.03.2023.

For Petitioner : Mr.C.M.Arumugam

ORDER

This Civil Revision Petition has been preferred by the plaintiff in O.S.No.105 of 2017 on the file of the District Munsif Court, Keeranur, assailing the impugned order dated 28.03.2023 passed in I.A.No.1 of 2023 in O.S.No.105 of 2017 filed by the petitioner/plaintiff.



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2. The above suit in O.S.No.105 of 2017 was filed by the petitioner for the relief of permanent injunction. When the suit was posted on 06.01.2023 for trial, the petitioner/plaintiff remained absent and therefore, the suit was dismissed for default.

3. Thereafter, the petitioner/plaintiff filed an application in I.A.No.1 of 2023 for restoration of the suit. In the said application, the petitioner/plaintiff has stated that due to the pro-longed ill-health of the petitioner, she was unable to appear before the Court on that day. The same was resisted on the side of the respondents/defendants by stating that the attempt of the petitioner/plaintiff is only to drag on the proceedings and the petitioner/plaintiff has not produced any documents to establish her illness.

4. According to the learned counsel for the petitioner, because of the illness suffered by the petitioner, she was unable to attend the Court on the date fixed for trial and therefore, the suit was dismissed for default on 06.01.2023 and immediately, on 10.01.2023, the petitioner filed I.A.No.1 of 2023 for restoration of the suit. However, the Trial Court while allowing the said I.A. imposed cost of Rs.4,000/- to be paid by the petitioner/plaintiff to the respondents/defendants on or before 11.04.2023 which is according to the



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petitioner is arbitrary. It is submitted that because of the ill-health of the petitioner, she was unable to mobilize the amount of Rs.4,000/- and therefore she was unable to comply with the conditional order.

5. Considering the above facts and circumstances of the case, the cost of Rs.4,000/- imposed by the Trial Court is reduced to Rs.500/-. The said amount shall be paid by the petitioner/plaintiff to the respondents/defendant on or before 15.09.2023, failing which, the I.A.1 of 2023 filed by the petitioner for restoration of the suit will automatically stand dismissed without any further reference to the Court. On such deposit, the order dated 06.01.2023 passed by the Trial Court in O.S.No.105 of 2017 is set aside and the suit shall be restored to file. The learned Trial Judge shall dispose the suit in accordance with law.

6. Accordingly, this Civil Revision Petition is allowed. No cost.

24.08.2023

NCC :Yes/No

Internet: Yes/No

Index: Yes/ No

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To

The District Munsif, Keeranur.

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Issue order copy on 28.08.2023



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K.GOVINDARAJAN THILAKAVADI, J.

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