



C.R.P(MD)No.2557 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **23.06.2023**

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.R.P(MD)No.2557 of 2022

and

C.M.P.(MD)No.12574 of 2022

K.J.Sahadevaraja

...Petitioner/Respondent/Defendant

Vs.

V.P.Rajula

...Respondent/Petitioner/Plaintiff

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 01.11.2022 passed in I.A.No.44 of 2020 in O.S.No.482 of 2004 on the file of the learned District Munsif, Rajapalayam.

For Petitioner : Mr.M.P.Senthil

For Respondent : Mr.A.Sivaji

ORDER

This petition has been filed to set aside the order passed in I.A.No. 44 of 2020 in O.S.No.482 of 2004 dated 01.11.2022, on the file of the learned District Munsif, Rajapalayam.



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2.The petitioner is aggrieved by the impugned order, dated 01.11.2022 passed in I.A.No.44 of 2020 in O.S.No.482 of 2004. By the impugned order, dated 01.11.2022, the learned District Munsif Court, Rajapalayam has allowed I.A.No.44 of 2020 filed by the respondent. Therefore, the suit stands restored to the file of the said Court.

3.The petitioner is the defendant in O.S.No.482 of 2004 before the District Munsif Court, Rajapalayam. The respondent/plaintiff had filed the suit in O.S.No.482 of 2004 before the District Munsif Court, Rajapalayam to recover a sum of Rs.68,692/- for the petitioner. The suit was dismissed for default on 06.02.2006. Therefore, I.A.No.44 of 2020 was filed by the respondent under Order 9 Rule 9 of C.P.C to restore the suit.

4.The respondent therefore filed interlocutory application to restore the suit under Order 9 Rule 9 of C.P.C on 24.02.2006. The said interlocutory application was returned for certain defects. The respondent failed to re-present the return-in time. Therefore, I.A.No.1065 of 2014 was filed by the respondent. I.A.No.1065 of 2014 was however rejected



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vide order dated 08.04.2015. Therefore, the respondent filed CRP(MD)No.1711 of 2015. CRP(MD)No.1711 of 2015 came to be allowed by this Court vide order, dated 14.08.2020 with the following observations:

"4.Having regard to the facts and circumstances of the case, this Court is inclined to allow this Civil Revision Petition. Accordingly, this Civil Revision Petition is allowed and the order passed by the learned Additional District Munsif, Srivilliputhur, in I.A.No.1065 of 2014 in O.S.No.482 of 2004, dated 08.04.2015 is set aside and the petition in I.A.No.1065 of 2014 in O.S.No.482 of 2004 stands allowed on condition that the petitioner pay a sum of Rs.2,000/- to the Counsel for the respondent or respondent within a period of eight weeks from the date of receipt of a copy of this order. Similarly, in case, the revision petitioner succeeds in getting a decree for recovery of money against the respondent, the petitioner is not entitled to claim any interest for the aforesaid period of 1824 days."

5.Thereafter, interlocutory application filed under Order 9 Rule 9 of C.P.C was numbered by the Court as I.A.No.44 of 2020 which has now been allowed by the impugned order on 01.11.2020. Aggrieved by the same, the petitioner/respondent who is the defendant has filed this civil revision petition. According to the petitioner, sufficient reasons were not given by the respondent for setting aside the dismissal order, dated 06.02.2006.



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6.It is submitted that despite CRP(MD)No.1711 of 2015 being allowed by this Court vide its order, dated 14.08.2020, no steps were taken to number I.A.No.44 of 2020, which was earlier filed on 06.02.2006. It is submitted that the impugned order passed by the District Munsif Court, Rajapalayam in I.A.No.44 of 2020 in O.S.No.482 of 2004 is liable to be set aside. Hence prayed for allowing the present Civil Revision Petition.

7.The Civil Revision Petitions filed by the petitioner was opposed by the learned counsel for the respondent on the ground that the impugned order is well reasoned and requires no interference.

8.I have considered the arguments advanced by the learned counsel for the petitioner and the respondent.

9.The respondent/plaintiff had filed the suit in O.S.No.482 of 2004 before the District Munsif Court, Rajapalayam against the petitioner/defendant recover money and the suit was dismissed for default on 06.02.2006.



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10.The petition filed I.A.No.44 of 2020 to set aside the order dismissing the suit. There was delay in representing I.A.No.44 of 2020 which was filed. Therefore, it was not numbered. Therefore, I.A.No.1065 of 2014 was filed by the respondent was rejected vide order, dated 08.04.2015. Therefore, the respondent filed CRP(MD)No.1711 of 2015, which came to be allowed by this Court vide its order, dated 14.08.2020. By the impugned order, dated 01.11.2022, the learned District Munsif Court, Rajapalayam has allowed I.A.No.44 of 2020 restored the suit to the file of the said Court. The interlocutory application filed to restore the suit on 24.02.2006, which was returned, was thus numbered as I.A.No.44 of 2020 and was allowed vide the impugned order. I.A.No. 1065 of 2014 was rejected vide order, dated 08.04.2015. Therefore, the respondent filed CRP(MD)No.1711 of 2015, which came to be allowed by this Court vide its order, dated 14.08.2020.

11.There is no merits to challenge in the impugned order. The impugned order does not call for any interference. This Civil Revision Petition is therefore, liable to be dismissed



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12. Therefore, this Civil Revision Petition is liable to be dismissed.

It stands accordingly dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

23.06.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Mrn

To

1. The District Munsif, Rajapalayam.

2. The Section Officer
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

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