



CRP No.697 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2024

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

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P.Nachimuthu

... Petitioner

Vs.

- 1.Venugopal
- 2.Karthikeyan
- 3.Ananthan
- 4.Sasikumar
- 5.G.Krishnan
- 6.K.Radha
- 7.Premalatha
- 8.The Superintending Engineer
TANGEDCO, Tatabad,
Coimbatore.
- 9.The Assistant Executive Engineer,
TANGEDCO, Peelamedu,
Coimbatore.
- 10.The Assistant Engineer,

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TANGEDCO, Gandhi Maanagar,
Peelamedu, Coimbatore.

...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the docket order dated 28.07.2023, in unnumbered I.A.No... of 2022 in OS No.1533 of 2008 on the file of IV Additional District Munsif Court, Coimbatore.

For Petitioner : Mr.J.Chandran Sundar Sashikumar

ORDER

The civil revision petition is filed to set aside the docket order dated 28.07.2023, in unnumbered I.A.No... of 2022 in OS No.1533 of 2008 on the file of IV Additional District Munsif Court, Coimbatore.

2. The petitioner has filed OS No.1533 of 2008 on the file of IV Additional District Munsif Court, Coimbatore seeking declaration and the same was dismissed for default on 24.06.2022. Thereafter, the petitioner has filed an application in unnumbered I.A.No... of 2022 in OS No.1533 of 2008 to restore the suit on file. The trial court, by docket order dated 28.07.2023, returned it as not maintainable. Hence, the civil revision petition.



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3. Learned counsel for the petitioner submits that the learned judge without considering the facts properly, has passed the impugned order. Hence, seeking to allow the Revision.

4. Heard the learned counsel for the petitioner and perused the materials available on record.

5. The impugned order dated 28.07.2023 reads as under:

Since, the dismissal order has been passed by the predecessor (FACT) Judge, the order cannot be reviewed u/s 152 CPC. Hence, this petition is not maintainable. Hence, returned.

6. The order passed in OS No.1533 of 2008, dated 24.06.2022 by the learned IV Additional District Munsif reads as under:

APC not filed. This case is pending for APC from 19.09.2018 to till date. The plaintiff has not come forward to file the APC. Hence, sufficient time is granted for the plaintiff beyond the prescribed period of 14 days. Hence, the case is dismissed for default. No order as to cost.

7. Since the petitioner/plaintiff has not filed amended plaint copy



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from 19.09.2018 till the date of dismissal, i.e. on 24.06.2022, the suit was dismissed for default. Under these circumstances, the instant application was filed to restore the suit, which was returned as not maintainable. The petition was filed under Section 152 CPC to recall the order, hence the learned judge returned the application. Therefore, I find no infirmity in the order passed by the trial court. Hence, this Civil Revision Petition is dismissed with liberty to the petitioner to file restoration application. There shall be no order as to costs. Consequently, CMP No.3539 of 2024 is closed.

07.03.2024

Index: Yes/No
Internet: Yes/No
mrn

To

The IV Additional District Munsif Court, Coimbatore.

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V.SIVAGNANAM, J.

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