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C.R.P.(PD).No.1248 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(PD).No.1248 of 2024

and CMP.No.6588 of 2024

1.Najeema Beevi
2.Mubarak Ahmad

... Petitioners

vs

Louise Rita Kaushik @ Joseph Louise Rita,
Rep by her Power Agent,
Mrs.Mary Getrude,
Residing at No.14-A, Olympic Colony,
Padi, Chennai – 600 050.

... Respondent

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the impugned docket order dated 22.02.2024 in I.A. SR.No.54759 of 2023 in O.S.No.4015 of 2022 passed by the learned XV Additional City Civil Judge, Chennai, returning the application filed by the petitioner seeking for rejecting the plaint in O.S.No.4015 of 2022 under Order VII Rule 11 of CPC, allow this Revision Petition and consequently direct the learned XV Additional City Civil Judge, Chennai, to number the



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I.A.SR.No.54759 of 2023 in O.S.No.4015 of 2022, decide the same on merits in accordance with law.

For Petitioners : Mr.S.R.Babu

ORDER

This Civil Revision Petition is filed challenging the order of return dated 22.02.2024 passed by the trial Court, returning the application filed by the petitioners seeking rejection of the plaint.

2. The petitioners are the defendants in the suit. The respondents herein filed a suit for recovery of money against the petitioners. According to the petitioners, the respondent/plaintiff has suppressed material fact relating to the payments received by him from the petitioners and therefore, there was no cause of action for maintaining the suit. The petition for rejection of plaint was returned by the trial Court on the ground that there was a clear disclosure of cause of action in the plaint. The petitioners represented the returned papers offering his explanation regarding non-disclosure of payments made by the petitioners. The Court below again returned the petition on the ground that suppression of fact will not come



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within the scope of Order 7 Rule 11 of CPC. The petitioners represented the papers again on 12.01.2024 offering his explanation for delay with case laws.

3. The trial Court again returned the papers on the ground that explanation offered by the petitioners was not satisfactory. If the Court is not satisfied with the explanation offered by the petitioners, the Court should have called the matter in open Court and given an opportunity to the petitioner to putforth their case and then pass a considered the order. Instead of adopting the said procedure, returning the petition again and again is not correct. Therefore, the impugned order of return dated 22.02.2024 is set aside and the trial Court is directed to call the matter in open Court afford an opportunity to the petitioners to explain their case and pass a detailed order.

4. Accordingly, the Civil Revision Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
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S.SOUNTHAR, J.

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To

The XV Additional City Civil Judge,
Chennai.

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