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C.R.P.No.1488 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17-12-2024

CORAM

THE HONOURABLE MR JUSTICE N. SATHISH KUMAR

C.R.P.No.1488 of 2024

D.Thangaraj
S/o. Duraisamy,
No. 38E, Kamarajar Street,
Bharathi Nagar, Perungalathur,
Chennai 600 048.

.... Petitioner

-Versus-

Durga
W/o. Kandhan,
No. 30, Kamaraj Street,
Bharathi Nagar, Perungalathur,
Chennai 600 048.

..... Respondent

Petition filed under Section 115 of the Code of Civil Procedure, praying to set aside the dismissal order dated 02.01.2024 made in I.A.No.2 of 2023 in O.S.No. 38 of 2020 pending on file of the learned District Munsif Court at Tambaram.

For Petitioner : Mr.J.William Shakesphere

For Respondent : No Appearance

ORDER

This civil revision petition has been directed at the instance of the plaintiff against the conditional order of the learned District Munsif, Tambaram, dated 02.01.2024 made in I.A.No.2 of 2023 in O.S.No.38 of 2010.

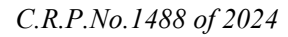
By the said order, the plaintiff was directed to pay a cost of Rs.500/- to the



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District Legal Service Authority, Chengalpattu, as a condition to allow the application in I.A.No.2 of 2023 filed by the plaintiff under Order IX, Rule 9 of CPC and to set aside the judgement and decree dated 09.02.2023 dismissing the suit in O.S.No.38 of 2020 for the non-appearance of the revision petitioner/plaintiff but as the plaintiff did not pay the payment of cost, the application stood dismissed.

2. The suit in O.S.No.38 of 2020 was filed for a bare injunction restraining the defendant or her men, agents or anyone acting through or on behalf of her from in any way interfering with the peaceful possession and enjoyment of the suit property. The defendant filed her written statement. When the suit was posted for trial on 09.02.2023, the same was dismissed for the non-appearance of the plaintiff. Thereafter, the plaintiff has taken out an application for the restoration of the suit which was dismissed for his non-appearance. It appears that the plaintiff's counsel was also not present. However, the application for restoration of the suit came to be filed by the plaintiff within a week's time of the dismissal of the suit. The counsel for the respondent/defendant did not appear in the restoration application, the trial court however, passed a conditional order directing the plaintiff to pay a cost of Rs.500/- to the District Legal Services Authority, Chengalpattu to restore the



5. Accordingly, the conditional order under revision by which the revision petitioner/plaintiff was directed to pay the cost of Rs. 500/- to the District Legal Services Authority, Chengalpattu, on or before 18.01.2024 is modified and the revision petitioner/plaintiff shall pay the cost as directed by the District Munsif, Tambaram, within a period of 15 days from the date of receipt of a copy of this order; if not, the revision petition will stand dismissed without any reference to the court. If the revision petitioner/plaintiff has paid



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the cost as directed herein above, the learned District Munsif, Tambaram, shall restore the suit to his file and dispose of the same on merits and in accordance with law.

In the result, this revision petition stands allowed on the above terms. No costs.

Index : yes / no
Neutral Citation : yes / no
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17-12-2024

To

1.The District Munsif, Tambaram, Kancheepuram District.



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N.SATHISH KUMAR.J.,

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