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C.R.P. (PD) .No.2750 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD).No.2750 of 2024
and C.M.P.No.14568 of 2024

1.B.Sadhana Medda

2.Bijjan Medda

.. Petitioners

Vs.

Susheela Kavar

.. Respondent

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the order passed in I.A.No.2 of 2022 in O.S.No.2458 of 2018 dated 06.06.2024 on the file of the XII Asst. City Civil Court, Chennai, by allowing this appeal.

For Petitioners : Mr.N.Suresh
For Respondent : Ms.Radha Swetha

ORDER

This civil revision petition challenges the order passed by the learned XII Assistant City Civil Judge, Chennai, in I.A.No.2 of 2022 in O.S.No.2458 of 2018, dated 06.06.2024.



2.I heard Mr.N.Suresh for the civil revision petitioners and Ms.Radha

Swetha for the respondent.

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3.By the order dated 06.06.2024, the learned Judge recorded the fact that the conditional order passed by the Court on 24.04.2024 had not been complied with and hence, dismissed the petition.

4.Mr.N.Suresh pleads that by oversight, the cost had not been paid. He also points out that the defendants had no objection for the application being allowed. Unfortunately, his colleagues did not inform him about the condition and hence, the default had occurred.

5.Ms.Radha Swetha states that they had no objection for the amendment application being allowed in order to enable fastracking the proceedings. She points out that another suit is pending in O.S.No.3589 of 2021 on the file of the VII Assistant City Civil Court, Chennai.

6.I have considered the arguments of Mr.N.Suresh for the civil revision petitioners and Ms.Radha Swetha for the respondent.



7.O.S.No.2458 of 2018 is a suit seeking for permanent injunction restraining the defendant, who is the husband of the plaintiff from in any manner disturbing the peaceful possession of the plaintiff or dealing with the property. Certain amendments were sought for in the plaint which came to be allowed on the condition that the plaintiffs pays a sum of Rs.500/- to the DLSA, Chennai. The time limit was fixed till 06.06.2024. On 06.06.2024, since the cost memo was not filed, the petition came to be dismissed.

8.The narration of the facts shows that the plaintiff had defaulted in the payment of the said amount for the reason that had not been communicated to her in proper time.

9.Taking over all circumstances into consideration, the order dated 06.06.2024 passed in I.A.No.2 of 2022 in O.S.No.2458 of 2018 is set aside on the condition that the plaintiff will pay a sum of **Rs.1,000/- (Rupees One Thousand Only)** to **The District Legal Services Authority, Chennai, on or before 06.12.2024**. If the amount is paid, the learned Trial Judge is requested to permit the plaintiff to amend the plaint as ordered by the Court in I.A.No.2 of 2022.



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10.As pointed out, a suit for redemption is also pending. Both the suits have to be tried together. Hence, in exercise of Article 227 of the Constitution of India, I withdraw O.S.No.2458 of 2018 from the file of the XII Assistant City Civil Court at Chennai and transfer the same to the file of the VII Assistant City Civil Court, Chennai. The learned VII Assistant Judge, City Civil Court, Chennai, shall try O.S.No.2458 of 2018 along with O.S.No.3589 of 2021 and pronounce a common judgment in the same.

11.In the result, Civil Revision Petition is allowed with the above discussion. In case, the cost of Rs.1,000/- (Rupees One Thousand Only) is not paid within the time limit fixed by this Court, this Civil Revision Petition will be dismissed without further notice to this Court. The order of transfer in terms of paragraph No.10 will not be affected by virtue of such non-payment. Consequently, the connected Miscellaneous Petition is closed.

26.11.2024

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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No



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To
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- 1.The XII Assistant Judge,
City Civil Court,
Chennai.
- 2.The VII Assistant Judge,
City Civil Court,
Chennai.



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V.LAKSHMINARAYANAN, J.

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