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C.R.P.No.2458 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.04.2024

CORAM:

THE HON'BLE MR.JUSTICE P.DHANABAL

C.R.P.No.2458 of 2022 and
C.M.P.No.12701 of 2022

1.S.Varadhan
2.S.Prema

... Petitioners

Vs.

R.Ramesh

... Respondent

PRAYER : Civil Revision Petition is filed under Article 227 of The Constitution of India, to set aside the fair and decreetal order dated 19.04.2022 in I.A.No.1 of 2021 in O.S.No.279 of 2013, on the file of the Principal Subordinate Court, Vellore.

For Petitioners : Ms.D.Chitra Maragatham

For Respondent : No appearance

ORDER

This Civil Revision Petition has been preferred to set aside the fair and decreetal order dated 19.04.2022 in I.A.No.1 of 2021 in O.S.No.279 of 2013, on the file of the Principal Subordinate Court, Vellore.



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2. The petitioners are the defendants in the suit. The respondent is the plaintiff. The suit has been filed for specific performance of contract based on the agreement dated 20.10.2010. When the case was posted for trial on 05.09.2019, due to the boycott of the Advocates, the plaintiff was not able to present before the Trial Court and thereby, the Court has passed an order on 12.09.2019, by dismissing the suit for default. The respondent / plaintiff filed an application in I.A.No.1 of 2021 under Order IX Rule 9 of C.P.C., to restore the suit which was dismissed for default on 12.09.2019 and the same was allowed by the Trial Court. challenging the same, this Revision Petition has been filed.

3. Heard Ms.D.Chitra Maragatham, learned counsel for the petitioners.

4. The learned counsel for the petitioners / defendants submitted that the reasons stated by the plaintiff for his absence before the Trial Court on 05.09.2019, is not correct and he deliberately absented himself on the date of hearing. No sufficient or acceptable reason was stated by the plaintiff for his non-appearance on 05.09.2019. Therefore, the application filed to restore the



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suit ought to have been dismissed. But, the Trial Court, without considering the same, allowed the said application by imposing a cost of Rs.1000/-.

5. No appearance for the respondent / plaintiff. Despite notice served on the respondent, there is no representation on behalf of the respondent. Hence, this Court passes the following order after hearing the learned counsel for the petitioners / defendants.

6. The main contention of the petitioners is that the suit was filed in the year 2013 and the petitioners have filed the written statement in the year 2014. Thereafter, the case was posted on 05.09.2019 for trial, but the plaintiff has not conducted the case. According to the respondent, due to advocates' boycott, the plaintiff failed to appear on that date and the said suit was dismissed for default. Thereafter, the plaintiff filed an application to restore the suit. The Trial Court after considering the rival submissions made by the parties, passed an order stating that the respondents in the main application have got no serious objection and in order to grant an opportunity to the petitioner / plaintiff and also to compensate the delay, inclined to allow the application with a cost of Rs.1000/-.



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the order passed by the Trial Court is in accordance with law and does not warrant any interference from this Court.

8. In view of the above observations, this Criminal Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Index: Yes/No
Speaking / Non Speaking Order
gsk

16.04.2024

To
The Principal Subordinate Court,
Vellore.



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P.DHANABAL,J.

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