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CRP Nos.192, 216 and 217 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2024

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRP No.192, 216 and 217 of 2024

P.Jaganeesan

... Petitioner

Vs.

P.Karthik

...Respondent

PRAYER: Civil Revision Petitions filed under Article 227 of the Constitution of India call for the records of the learned Trial Court and set aside the common order and decreetal order dated 26.04.2023 passed in MP No.3, 13 and 14 of 2023 against MP No.102 of 2022 in RLTOP No.25 of 2021 on the file of the learned District Munsif, Ambattur and allow this civil revision petition.

For Petitioner

: Mr.M.Dhivakar

COMMON ORDER

The civil revision petitions are filed to call for the records of the learned Trial Court and set aside the common order and decreetal order dated 26.04.2023 passed in MP Nos.3, 13 and 14 of 2023 against MP



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No.102 of 2022 in RLTOP No.25 of 2021 on the file of the learned District Munsif, Ambattur and allow this civil revision petition.

2. The revision petitioner is the respondent and the respondent is the petitioner in RLTOP No.25 of 2021 on the file of the learned District Munsif, Ambattur. After examination of PW1, he was not cross examined and the case was posted for cross examination. Due to ill health, the revision petitioner/respondent was unable to attend court. Hence the PW1 evidence was closed on 30.08.2023. Thereafter, the petitioner has filed MP.No.102 of 2022 to recall PW1 for cross examination and the said petition was allowed on 16.09.2022 on payment of costs of Rs.500/- and posted for reporting compliance on 13.10.2022. Since the petitioner had not complied with the said order, the same was dismissed on 13.10.2022. Thereafter, he filed petitions in MP. Nos.3, 13 and 14 of 2023 on the file of the learned District Munsif, Ambattur, to extend the time from 13.10.2022 to comply the conditional order of this Court dated 16.09.2022 in MP No.102 of 2022, to condone the delay of 69 days in filing the restore petition



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against MP No.102 of 2022 and to set aside the dismissal order in MP No.102 of 2022 and to restore the same. The learned Judge, by order dated 26.04.2023, dismissed the applications by holding that the petitioner did not reveal a ground for filing these applications and the petitioner is attempting to prolonging the proceedings. Challenging the said order, the petitioner has filed the present civil revision petitions.

3. Learned counsel for the petitioner submits that the petitioner is ready to complete the trial within the time frame fixed by this court and seeking to allow the revisions.

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

5. It is not disputed that the case was posted for cross examination of PW1 and the same was close and thereafter the petitioner filed a petition to recall PW1 in MP No.102 of 2022 and the same was allowed on payment of



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cost. The petitioner contended that his counsel was ill and he could not attend the court and unable to instruct him for payment of the said cost. Under these circumstances, the petition was dismissed and there is no negligence on the part of the petitioner in compliance with the conditions of the court and therefore, seeking to set aside the impugned order and permit him to defend his case and dispose it on merit.

6. Under these circumstances, in order to give a chance to the petitioner/respondent to defend the case, I am inclined to allow the civil revision petitions and impugned order dated 26.04.2023 is set aside and the petitioner is permitted to pay the cost as directed by the trial court in MP No.102 of 2022 immediately, within a week from the date of receipt of a copy of this order and MP No.102 of 2022 is restored. On restoring the said petition, the District Munsif, Ambattur, is hereby directed to dispose the petition in RLTOP No.25 of 2021, within a period of four months thereafter.



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7. In fine, the civil revision petitions are allowed. There shall be no order as to costs. Consequently, CMP Nos.893, 1005 and 1007 are closed.

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Index: Yes/No
Internet: Yes/No
mrn

To
The District Munsif, Ambattur



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V.SIVAGNANAM, J.

(mrn)

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