



C.R.P.No.572 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.03.2024

C O R A M:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P.No. 572 of 2022
and C.M.P.No.3030 of 2022

N. Geetha

... Petitioner

Vs.

1. P.K.Kaliappan
2. Muniappan
3. M.Selvaraj
4. M.Yuvaraj
5. N.Tangavel
6. R.M.Sankar

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the Fair and Decreetal order dated 02.11.2021 passed in I.A.No.491/2021 in I.A.No.242/2021 in O.S.No.49/2013 on the file of District Munsif Court Harur.

For Petitioner : Mr.M.Anaimuthu Raja
For Respondents : Mr.V.Nicholas for R1
No appearance for R2 to R6

ORDER

Challenging the dismissal order dated 02.11.2021 passed by the learned District Munsif Court, Harur made in I.A.No.491/2021 in I.A.No.242/2021 in O.S.No.49/2013 for extension of time to pay the costs.

Page No:1/5



C.R.P.No.572 of 2022

2. The revision petitioner herein is the Plaintiff and filed O.S.No.49 of 2013 on the file of District Munsif Court, Harur for declaration. The petitioner examined himself as PW1 and marked Exhibits A1-A20. Thereafter, in order to file some revenue documents, the case was adjourned. But the same was omitted to be marked as Exhibits.

3. The petitioner/plaintiff filed I.A.No.242 of 2021, to recall PW1 for further Chief Examination and to mark exhibits. The said IA was allowed vide order dated 10.08.2021 on payment of cost of Rs.500/- on or before 16.08.2021.

4. Inadvertently, he was unable to pay the said cost within the time granted by the Trial Court. Therefore, again he filed I.A.No.491 of 2021 under Section 148 of CPC, for extension of time. The said IA was dismissed by the Trial Court vide order dated 02.11.2021 holding that after expiry of the time granted for payment of cost, the Trial Court is not vested with the jurisdiction for extending time to comply with the conditional order. Aggrieved by the same, the present Civil Revision Petition is filed.

Page No:2/5



C.R.P.No.572 of 2022

WEB COPY

5. Learned counsel for the petitioner/plaintiff would submit that the order of the Trial Court is exfacie erroneous and contra to the dictum laid down in the case of *Salem Advocate Bar Association vs Union of India*, reported in **2005(6) SCC 344**, wherein, the Apex Court held that the Court is vested with inherent powers and the Court will not become functus officio.

6. Heard the learned counsel for the respondents on the above submissions and perused the records.

7. Perusal of the records would go to show that, to recall for further Chief Examination on the omitted documents on petitioner's side will not cause any prejudice to the respondents/defendants. Further, the respondents/defendants can be amply compensated by the payment of cost for the lapse on the part of the petitioner/plaintiff.



C.R.P.No.572 of 2022

8. In the result, the Civil Revision Petition is disposed of and the order dated 02.11.2021 passed by the learned District Munsif Judge, Harur in I.A.No.491/2021 in I.A.No.242/2021 in O.S.No.49/2013 is set aside. However, the plaintiff/petitioner is directed to pay a sum of Rs.1000/- (Rupees One thousand only) to the respondents, in addition to a sum of Rs.500/- which was already imposed. The said amount of cost should be paid by the petitioner/plaintiff within a period of two(2) weeks from the date of receipt of a copy of this order. It is made clear that the petitioner/plaintiff will not be entitled to examine any other witness except himself. On payment of such costs, the learned District Munsif Court, Harur is directed to dispose of the suit in O.S.No.49 of 2013 within a period of three(3) months thereafter. No costs. Consequently connected miscellaneous petition is closed.

15.03.2024

msv

To

The District Munsif Court, Harur.

Page No:4/5



WEB COPY



C.R.P.No.572 of 2022

J.NISHA BANU,J.

msv

C.R.P.No. 572 of 2022
and C.M.P.No.3030 of 2022

15.03.2024

Page No:5/5