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C.R.P.(P.D).No.778 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.03.2024

CORAM

THE HON'BLE Mr. JUSTICE V. SIVAGNANAM

**C.R.P.(PD) No.778 of 2024
and CMP.No.3846 of 2024**

1. S. Ramanathan

...Petitioner

Vs

1. D. Dinakaran

2. D. Rajadurai

... Respondents

Prayer:- Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside docket order dated 01.08.2023 in I.A.No.4 of 2022 in O.S.No.164 of 2021 on the file of Sub Court of Udumalpet, allow the civil revision petition with costs.

For Petitioner : M/s.S.Janani
for Mr.A.Sivaji

ORDER

Aggrieved by the docket order dated 01.08.2023 in I.A.No.4 of 2022 in O.S.No.164 of 2021 whereby allowing the petition filed by the respondents to set aside the exparte order passed against them in the suit, the present civil revision petition is filed.



2. The petitioner herein filed a suit for declaration and permanent injunction against the respondents herein and 13 others. When the suit was taken up on 10.02.2022, the respondents herein who were arrayed as defendants 13 & 14 in the suit were absent. The case was posted on that day for filing of written statement by the parties. Since the respondents/defendants 13 & 14 were neither present by themselves or through their advocate, the suit against them was set exparte. Challenging the said exparte order passed against them, the respondents have filed I.A.No.4 of 2022 and the petitioner herein has filed a counter to the said application. The learned trial Judge by order dated 01.08.2023 allowed the said application on payment of cost of Rs.750/- to paid to the petitioner/plaintiff herein. Challenging the said order the present civil revision petition has been filed.

3. The learned counsel for the petitioner contended that the respondents were lethargic and they were absent before the trial Court repeatedly hence the exparte order passed against them should not have been disturbed by the learned trial Judge. Hence the learned counsel prays for dismissal of the I.A.



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

5. The suit is for declaration and permanent injunction. Relief is also sought against the respondents herein who were arrayed as defendants 13 & 14 in the suit. Unless the respondents/defendants are given an opportunity to defend their case, fair justice would not be served. The trial Judge has imposed a cost of Rs.750/- on the respondents. The said order was also complied with by the respondents herein. Since the exparte order was set aside only on payment of cost the defendants would be vigilant in future in conducting the suit.

6. In view of the above, this Court finds no infirmity or illegality in the order passed by the Court below. Accordingly, the Civil Revision Petition stand dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

12.03.2024

dpq
Internet: Yes/No
Speaking Order: Yes/No



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V. SIVAGNANAM, J.

dpq

To

The Sub Court,
Udumalpet

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