



C.R.P.No.4994 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2024

CORAM

THE HONOURABLE MR. JUSTICE V. SIVAGNANAM

Civil Revision Petition No.4994 of 2023

K. Yasotha

...

Petitioner

Vs

1. Mrs. Jamuna Bai

2. D. Saravanan

...

Respondents

Prayer: Civil Revision Petition has been filed under Section 115 of the CPC to set aside the order dated 20.10.2023 in I.A.No.3 of 2023 in I.A.No.1 of 2023 in O.S.No.211 of 2020 on the file of the Principal District Munsif, Poonamallee and enable the petitioner/plaintiff to pay the cost in due compliance in the afore said order in I.A.No.3 of 2023 in I.A.No.1 of 2023 in O.S.No.211 of 2020 and to contest the suit on merit.

For Petitioner : Mr S.Vasu



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For respondents : Mr. S.Ganesh,
for R1 & R2

: Mr.C.Sathish,
Government Advocate,
for R3

ORDER

Challenging the order of dismissal passed by the Principal District Munsif, Poonamallee in I.A. No.3 of 2023 in I.A.No.1 of 2022 in O.S.No.211 of 2020, the present civil revision has been filed.

2. The revision petitioner/plaintiff had filed the suit in O.S.No.211 of 2020 before the Principal District Munsif Court, Poonamallee for declaration to declare the sale deed registered in Document No.1028 of 2020 dated 29.07.2020 executed by the 1st defendant to the 2nd defendant, which was registered by the 3rd defendant, is null and void and also for mandatory injunction directing the 2nd defendant not to alienate or change or alter the suit property without getting leave from the Court. Since the said suit was dismissed for default on 24.06.2022, the petitioner/plaintiff had filed a petition



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in I.A.No.1 of 2022 to condone the delay of 58 days in restoring the suit and the same was allowed subject to payment of costs of Rs.1000/- to the respondents on the next hearing date of 25.04.2023. Since the petitioner/plaintiff failed to pay the cost on or before 25.04.2023, the learned Trial Judge dismissed the petition on 25.04.2023 itself. Thereafter, the petitioner/plaintiff had filed I.A.No.3 of 2023, under Section 151 of CPC to condone the delay in paying the cost and also to allow the petitioner to pay the cost, which was also dismissed on 20.10.2023 on the ground that as already the petition was disposed off due to non-payment of costs, the Court become *functus officio* and the petition is not at all maintainable. Aggrieved over the same, the present revision has been filed.

3. Heard the learned counsel for the petitioner and perused the materials available on records carefully.

4. On verification of papers, it is noticed that only after completion of the period fixed by the Trial Court for payment of cost, (i.e. on 25.04.2023),



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the application in I.A.No.3 of 2023 has been filed on 28.04.2023 to condone the delay for payment of cost imposed by the Trial Court in I.A.No.1 of 2022 in O.S.No.211 of 2020 . As rightly pointed out by the Trial Court, the trial court has become *functus officio* since it was dismissed due to non-payment of costs. Therefore, this revision is not maintainable and the same is liable to be dismissed.

5. Accordingly, this Civil Revision Petition is dismissed. However, liberty is granted to the petitioner to work out his remedy to set-aside the fair and decreetal order made in I.A.No.1 of 2022 in the manner known to law.

21.02.2024

Index: yes/no
Internet:yes/no
mrp

To
The Principal District Munsif,
The Principal District Munsif Court,
Poonamallee.



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V. SIVAGNANAM, J.

mrp

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