



C.R.P.NPD(MD)No.482 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.03.2024

CORAM

THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

C.R.P.NPD(MD).No.482 of 2020

1.Baskar

2.Bagavathi Pandian

... Petitioners

Vs.

1.G.Victor Anto

2.Vinoth Sankarlal

.. Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India challenging the docket order passed in E.P.No.176 of 2019 dated 20.12.2019 by the Additional District Judge, Theni arising out of A.C.P.No. 387 of 2017 on the file of the sole Arbitrator.

For Petitioners : Mr.S.Palai Velayutham

For Respondents : Mr.N.GA.Nataraj, Govt.Advocate



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ORDER

This Civil Revision Petition is directed against the order passed in I.A.No.576 of 2018 in O.S.No.274 of 2014 dated 25.10.2019 on the file of the Court of learned Additional Sub-ordinate Judge, Tenkasi.

2. The said application was filed under Or.9 R.9 r/w. Sec.151 of C.P.C seeking restoration of the suit which was dismissed for default. The learned Trial Court exercising its discretion restored the suit by allowing the said application in I.A.No.576 of 2018 however by imposing a costs of Rs. 500/- to be paid within five days. Admittedly, the petitioners herein failed to pay the said amount of Rs.500/- within the time stipulated by the learned Trial Court. Thereafter, the petitioners approached this Court by filing the present Civil Revision Petition. During the pendency of the present Civil Revision Petition, the petitioners also filed an application in I.A.No.1 of 2023 in O.S.No.274 of 2014 before the learned Trial Court seeking extension of time for deposit of amount of Rs.500/- but the said application was dismissed by the learned Trial Court on 19.02.2024.



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3. This Court having heard the learned counsel for the petitioners and the learned counsel for the respondents and having perused the entire materials on record does not find any justification in the petitioner not paying the amount of costs of Rs.500/- within the time stipulated by the learned Trial Court.

4. However, considering the fact that the suit is for seeking specific performance of an agreement of sale for a value of Rs.6,00,000/- and in order to afford an opportunity to the petitioners herein to prosecute the matter on merits instead of dismissing the same for default, this Court is inclined to modify the order under revision and also taking into consideration the contention of the petitioners especially in filing a Tr.O.P.No.133 of 2018 and their failure to appear when the matter is taken up for consideration and also their failure to pay the costs imposed by the learned Trial Court within the time stipulated, this Court is of the considered view that the petitioners herein are liable to pay appropriate costs in order to have the benefit of prosecuting the suit on merits. The learned counsel for petitioner also agreed to pay costs as may be fixed by this Court. Accordingly the order under Revision is



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modified by enhancing the costs of Rs.500/- imposed by the learned Trial Court to Rs.25,000/- payable by the petitioners to the respondents within a period of two weeks from the date of receipt of a copy of this order. If the said costs of Rs.25,000/- is not paid to the respondents herein within the time stipulated above, this Civil Revision Petition shall stand dismissed without any further reference to this Court. No costs.

13.03.2024.

NCC : Yes/No

Index : Yes/No

Internet : Yes

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To

The Additional Sub-ordinate Judge, Tenkasi



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MUMMINENI SUDHEER KUMAR, J.

kpr

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