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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.10.2024

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THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.R.P(MD)No.2306 of 2024

S.Saravanan

...Petitioner

Vs.

G. Dhanraj

... Respondent

PRAYER: Civil Revision Petition is filed under Section 115 of Civil Procedure Code, to set aside the fair and decreetal order dated 15.06.2024 in I.A. No.119 of 2022 in O.S.No. 54 of 2012 on the file of Sub Court, Ramanathapuram.

For Petitioner : Mr.S. Ramesh

For Respondent : Mr.J. Barathan

ORDER

This Civil Revision Petition is filed by the plaintiff against the order, dated 15.06.2024 passed in I.A.No.119 of 2012 in O.S.No.54 of 2012 on the file of the Sub Court, Ramanthapuram.

2. The plaintiff in the suit is the revision petitioner and the defendant in the suit is the respondent herein. The plaintiff has filed a suit in



O.S.No.54 of 2012, for specific performance. Initially, the suit was filed on the file of the District Court. Ramanathapuram and subsequently the same was transferred to Sub Court.

3. The contention of the plaintiff is that an exparte decree was passed in the District Court itself. But due to want of jurisdiction, the case was transferred to Sub Court, Ramanathapuram. After transferring the suit to the Sub Court, Ramanathapuram notice was not served on the plaintiff. Thereafter, the suit was dismissed for default in the Sub Court as well. After more than 2689 days, the plaintiff came to understand that the suit was dismissed for default. Thereafter, the IA was filed to condone the delay of 2689 days in filing the restoration petition to restore the suit.

4. The contention of the defendant is that the plaintiff is aware of the dismissal, even in the District Court and also in the Sub Court, but had not taken any effective steps to restore the suit.

5. After hearing the rival submission this Court is of the considered opinion that even though the suit was dismissed for default in District Court, Ramanathapuram, the dismissal cannot be taken into account since the decree is without any jurisdiction. After transfer the Sub Court has not issued any notice



to the parties and the same is violation of principles of natural justice.

Therefore, this Court is inclined to allow this Civil Revision Petition.

6. Accordingly, this Civil Revision Petition is allowed. The plaintiff is directed to pay Rs.5,000/- to the Learned Counsel appearing for the defendant, within a period of one week from the date of receipt of a copy of order. On such payment, the delay is condoned. The Sub Court, Ramanathapuram is directed to restore the suit in O.S.No.54 of 2012 on file and hear the case on merits and the suit proceedings shall be completed within a period of one year from the date of receipt of a copy of the order. No Costs.

24.10.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
KSA

To

1. The Sub Court, Ramanthapuram.

2. The Section Officer,

Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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Order made in
C.R.P(MD)No.2306 of 2024

24.10.2024