



C.R.P(MD)No.49 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.01.2024

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

C.R.P(MD)No.49 of 2024

Ravichandran

.. Petitioner /Plaintiff

Vs.

Gurumurthi

.. Respondent/Defendant

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, to call for the records relating to the impugned petition and order dated 14.12.2023 made in unnumbered IA.No..... of 2023 in IA.No.6 of 2021 in OS.No.108 of 2019 on the file of the District Munsif Court, Manamadurai (FAC), and to set aside the same and allow this civil revision petition.

For Petitioner : Mr.V.Janakiramulu

ORDER

This petition has been filed challenging the order dated 14.12.2023 made in unnumbered IA.No..... of 2023 in IA.No.6 of 2021 in OS.No.108 of 2019 on the file of the District Munsif Court,



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Manamadurai (FAC).

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2. The petitioner is the plaintiff, who filed the suit in O.S.No. 108 of 2019 seeking declaration and injunction declaring that the disputed pathway is a common pathway and for consequential injunction and for cost. Pending trial, he sought permission to mark a document dated 16.07.1995 which is an unregistered partition deed. Hence, Stamp Duty Penalty was imposed upon the petitioner to the tune of Rs.52,970/- to be paid on or before 07.09.2023. But he did not make payment within the stipulated time. The learned counsel for the petitioner submitted that the petitioner could not mobilize fund since he was affected by COVID-19. Hence, he filed two applications to enlarge the period for comply with the direction of the trial Court and to condone the delay of 15 days in filing the enlarge petition. But without considering the same on merits, the trial Court mechanically dismissed the petitions by order dated 14.12.2023. Aggrieved over the same, the petitioner approached this Court.

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



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4. Perusal of the records shows that the said applications were not decided on merits on judicial side and on administrative side, the trial Court by order dated 14.12.2023, returned the same by stating the following reasons:

*“After sufficient opportunity having been given the plaintiff, for default in payment of stamp duty penalty, by order passe din B Diary dated:07.09.2023 the document sought to be marked was rejected by virtue of order XIII Rule 3 of CPC the matter having attained a finality order of the court stipulated in the B diary the petition filed by virtue of Section 148 CPC and Sections 5 of the Limitation Act is not maintainable, extension time is not sought prior to the due date specified, the court has passed concluding order. Since the mater has become infructuous the petition not maintainable.
Hence Returned.”*

5. Considering the above said limited request made by the learned counsel for the petitioner, there shall be a direction to the learned District Munsif, (FAC), Manamadurai, to consider afresh the unnumbered IA.No..... of 2023 in IA.No.6 of 2021 in OS.No.108 of 2019



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and to dispose the same on merits and in accordance with law, or in judicial side by numbering the petition.

6. With the above direction, this Civil Revision Petition is disposed of. No Costs.

7. Registry is directed to return the original papers, after obtaining the xerox copy, to the petitioner to file before the trial Court.

10.01.2024

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

PJL

To

1. The District Munsif,(FAC),
Manamadurai.

2.The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGO VAN, J.

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