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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.04.2025

CORAM

THE HON'BLE MR. JUSTICE R.VIJAYAKUMAR

C.R.P.(PD)(MD)No.505 of 2024

and

C.M.P(MD)No.2533 of 2024

1.A.Stephen Joseph

2.M.Sarmilamary

...Petitioners/Petitioners/Defendants

Vs.

S.Vijay Amalraj

...Respondent/Respondent/Plaintiff

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 05.10.2023 passed in unfiled I.A.Sr.No.11591 of 2023 in C.O.S.No.2 of 2023 passed by the Principal District Court, Commercial Court, Thanjavur, and reject the suit C.O.S. No.2 of 2023.

For Petitioners : Mr.P.Sesubalan Raja

For Respondent : Mr.M.P.Senthil

* * * * *



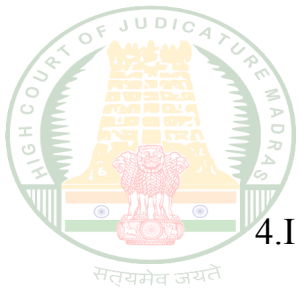
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ORDER

The defendants in C.O.S.No.2 of 2023, on the file of the Principal District Court(Commercial Court) Thanjavur, have filed the present revision petition challenging the order passed by the trial Court in un-numbered I.A.SR.No. 11591 of 2023, wherein the trial Court has proceeded to dismiss the application filed by the defendants under Order 7 Rule 11 of C.P.C. even without numbering the said application.

2.According to the learned Counsel appearing for the revision petitioners, when this application was filed under Order 7 Rule 11 of C.P.C, the trial Court has not provided any opportunity to the revision petitioners to put forth their submissions. The application has not even been numbered and orders have been passed on merits rejecting the said application.

3.Per contra, the learned Counsel appearing for the respondent herein had contended that the trial Court has felt that the application need not be numbered and it was dismissed in the un-numbered stage and therefore, the said order may be sustained.



4.I have considered the submissions made on either side and perused the materials available on record.

5.A perusal of the order passed by the trial Court reveals that the application under Order 7 Rule 11 of C.P.C. has been dismissed without even being numbered. Without even hearing the submissions on the side of the revision petitioners, orders on merits have been passed by the trial Court.

6.In such circumstances, the order impugned in the revision petition is hereby set aside and the matter is remanded back to the file of the trial Court. The trial Court shall number the said application and after hearing both sides, shall pass orders on merits in accordance with law without being influenced by any one of the observations made in the order, dated 05.10.2023.

7.With the above said observations, this Civil Revision Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is also closed.

03.04.2025

Internet: Yes/No
Index: Yes/No
RJR



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R.VIJAYAKUMAR, J.

RJR

To

The learned Principal District Judge,
Commercial Court, Thanjavur.

Copy to:-

The Section Officer,
VR Section,
Madurai Bench of Madras High Court, Madurai.

C.R.P.(PD)(MD)No.505 of 2024

03.04.2025