



C.R..P.(PD)(MD).No.791 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(PD)(MD)No.791 of 2025

Wilson

... Petitioner/
Petitioner/Plaintiff

Vs.

Rajaian

... Respondent/
2nd Respondents/2nd Defendant

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, against the fair and decreetal order dated 21.01.2025 made in I.A.No.2 of 2024 in O.S.No.405 of 2024 on the file of the learned Subordinate Judge, Padmanabhapuram.

For Petitioner : Mr.R.Jenifar Bibin

ORDER

The plaintiff in O.S.No.405 of 2024 on the file of the learned Subordinate Judge, Padmanabhapuram, has filed the present Civil Revision Petition, challenging the dismissal of his application in I.A.No.2 of 2024 for default.



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2. A perusal of the records reveal that the above said suit has been filed by the plaintiff for the relief of recovery of a sum of Rs.4,68,798/- (Rupees Four Lakhs Sixty Eight Thousand Seven Hundred and Ninety Eight only) along with interest. The plaintiff had filed I.A.No.2 of 2024, under Order 38 Rule 5 of C.P.C, seeking a direction as against the defendant for furnishing security or in default for attachment before judgment. The batta was not paid in the said application and therefore, I.A.No.2 of 2024 has been dismissed for default. Challenging the said order, the present Civil Revision Petition has been filed.

3. According to the learned counsel appearing for the revision petitioner, though batta was not paid, the defendant had appeared before the Court pursuant to the summons issued to the suit. Therefore, the trial Court ought not to have dismissed I.A.No.2 of 2024 for default.

4. When an application was dismissed for default, the only option to open the parties is to file an application under Order 9 Rule 9 of C.P.C, to restore the same and cannot challenge the said order.



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5. Granting said liberty, this Civil Revision Petition stands disposed of.

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There shall be no order as to costs.

14.03.2025

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

Note: Issue order copy of 18.03.2025

To

1. The Subordinate Judge,
Padmanabhapuram.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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