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CRP.No.6598 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.04.2026

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THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

CRP.No.6598 of 2025

and

CMP.No.8837 of 2026

1.Mrs.P.V.Nabeesu
2.Mr.A.P.Shajid
3.Mr.A.P.Saleel
4.Mrs.A.P.Shoujah

... Petitioners/
Defendants 1 to 4

Vs.

Wing Commander R.Sivakumar (Retd.)
Indian Air Force,
Son of Late Ramachandran,
39, Visweswaryya Road II,
K.K.Pudur,
Coimbatore 641 038.

... Respondent/
Plaintiff

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the docket order made in I.A.No.1 of 2025 in O.S.No.2935 of 2023 on the file of the XXI Additional City Civil Court, Chennai.

For Petitioners : Mr.R.Thiagarajan

For Respondent : Ms.P.Srividhya



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ORDER

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Challenging the impugned order passed by the learned XXI Additional City Civil Court, Chennai, in I.A.No.1 of 2025 in O.S.No.2935 of 2023, whereby the petition filed by the respondent/plaintiff under Order IX Rule 9 CPC to restore the suit dismissed for non-prosecution was allowed on payment of costs, the present Civil Revision Petition has been filed by the petitioners/defendants.

2. The learned counsel for the petitioners/defendants contended that the Court below erred in allowing the application without sufficient cause being shown for the non-appearance of the respondent/plaintiff. It is further submitted that the suit was dismissed for default on 04.01.2025 and the reasons assigned for restoration are neither valid nor convincing. The learned counsel would also submit that there was an earlier settlement between the parties and a letter dated 02.08.2022 was executed by the respondent/plaintiff relinquishing his claim and, therefore, the restoration of the suit would cause serious prejudice to the petitioners/defendants.

3. Per contra, the learned counsel for the respondent/plaintiff submitted that the suit was dismissed only due to the inability of the respondent/plaintiff



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to appear before the Court on account of ill health and advanced age. It is submitted that the respondent/plaintiff is aged about 83 years and residing at Coimbatore and that his non-appearance was neither wilful nor wanton. It is further submitted that the Trial Court, considering the age and circumstances, rightly exercised its discretion in allowing the application on payment of costs. It is also contended that the genuineness and effect of the alleged letter dated 02.08.2022 are matters for trial and cannot be decided at this stage.

4. This Court has considered the submissions made on either side and perused the materials available on record. It is not in dispute that the suit was dismissed for non-prosecution on 04.01.2025 and that the respondent/plaintiff filed I.A.No.1 of 2025 seeking restoration of the suit. The Trial Court, though observed that the reasons assigned for non-appearance were not wholly convincing, taking into consideration the advanced age of the respondent/plaintiff and the nature of the case, allowed the application on payment of costs of Rs.5,000/-.

5. It is well settled that while considering an application under Order IX Rule 9 CPC, the Court has to adopt a liberal approach to ensure that substantial justice is done between the parties. In the present case, the Trial



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Court has exercised its discretion judiciously by imposing costs while granting an opportunity to the respondent/plaintiff to prosecute the suit. The contentions raised by the petitioners/defendants with regard to the alleged settlement and the letter dated 02.08.2022 involve disputed questions of fact, which can be adjudicated only during trial.

6. In such circumstances, this Court does not find any perversity or illegality in the order passed by the Trial Court warranting interference under Article 227 of the Constitution of India.

7. However, considering the fact that the respondent/plaintiff is aged about 85 years and the suit is of the year 2023, the Trial Court is directed to expedite the proceedings and dispose of the suit as expeditiously as possible, preferably within a period of four months from the date of receipt of a copy of this order.

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

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To

The XXI Additional City Civil Court, Chennai.



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T.V.THAMILSELVI, J.

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