

I.A.No.1/2022
in
O.S.No.354/2018

Date: 23.02.2024

ORDER

Plaintiff in O.S.No.354/2018 is the Petitioner in the present Application, which is filed under Order 9 Rule 9 and Sec.151 CPC, praying this Court to restore the above Suit, which was dismissed for default on 02.12.2021.

2) Heard the Learned Counsel appearing for the Petitioner, Learned Counsel appearing for Respondent No.2 and Learned counsel appearing for Respondent Nos.11 to 13 and perused the records.

3) There was not representation for Respondents 1, 3 to 10 and 14. They have not filed their Counter.

4) Perusal of records would show that the Petitioner has laid the above Suit seeking the relief of Partition and other incidental relieves; that the above Suit was posted for trial on 02.12.2021; that since, the Plaintiff had failed to appear for trial, on the said day, the Suit was dismissed for default.

5) According to the Petitioner, since, she was not well on 02.12.2021, she could not appear before this Court and that resulted in the dismissal of the Suit, which is neither willful nor wanton and therefore, another opportunity may be granted to her to prosecute the Suit on merits.

6) Considering the nature of the Suit and the reasons assigned by the Petitioner and her age, this Court feels that one more opportunity could be granted to her to prosecute the Suit by imposing suitable terms.

In result, the above Application is allowed on condition that the Petitioner shall pay a sum of Rs.1,000/- towards cost to the 2nd Respondent and another sum of Rs.1,000/- as cost to Respondents 11 to 13 (Total cost amount of Rs.2,000/-), on or before 06.03.2024. Failing which, the above application will be dismissed.

Call this application on 07.03.2024.

III ADJ,
Salem.