

I.A.No.2/2022 in O.S.No.367/2018

Date: 02.04.2024

ORDER

Plaintiff in O.S.No.367/2018 is the Petitioner in the present Application, which has been filed under Order 9 Rule 9 and Sec.151 CPC, praying this Court to restore the Suit in O.S.No. 367/2018, which was dismissed for default on 07.04.2022.

2) Heard both sides and perused the records.

3) Perusal of records would show that the Petitioner has filed the above Suit seeking recovery of money on the basis of a Promissory Note dated 03.01.2016. The Suit claim is a sum of Rs.16,19,088/- with future interest.

4) Perusal of records would further show that the Suit was posted in the list for trial on 02.12.2021 and on the said day, the Petitioner has filed an Application in I.A.No.1/2021 under Rule 74 of the Civil Rules of Practice praying this Court to send for certain documents, which are allegedly available in C.A.No.114/2018, on the file of the 2nd Additional District and Sessions Judge, Salem. The said

Petition was posted for filing Counter, on 07.04.2022.

5) It seems that on 07.04.2022, the Respondent has not filed his Counter and therefore, the Respondent was set exparte and this Court has proceeded to pass Orders in the said Application on merits and in consequence, I.A.No.1/2021 came to be dismissed, by observing that the documents cannot be ordered to be sent for from an another Court.

6) On 07.04.2022, after the dismissal of I.A.No.1/2021, this Court has dismissed the Suit on the ground that the Petitioner was called absent and there was no representation for the Petitioner.

7) Considering the above facts, circumstances and the reasons assigned by the Petitioner, this Court is inclined to allow the above Application, in the interest of justice.

In result, the above Application is allowed and the Suit is ordered to be restored to file.

III ADJ,
Salem.