

IN THE COURT OF THE DISTRICT MUNSIF, DEVAKOTTAI

PRESENT: Thiru. A. DHARANIDHARAN, B.Sc., M.L., M.A., LL.M.

District Munsif, Devakottai

Wednesday, the 15th day of December, 2021

I.A. 05/2019

in

I.A. 01/2019

in

O.S. No. 02/2018

Aasara Beevi

Petitioner/Plaintiff

Vs

Jareena

Respondent/Defendant

This petition having been finally heard on 15.12.2021 in the presence of Mr. L. Chandrasekaran, M.A. B.L., the learned counsel for the Petitioner and Mr. N. Balaji, the learned counsel for the Respondent/Defendant upon hearing the arguments of both sides and after perusal of the entire records and having stood over for my consideration till this day, this Court delivers the following:

ORDER

The petition was filed by the Petitioner under Sec.151 praying to extend the period for payment of the cost imposed by this Court.

2. The averments set out in the petition/affidavit filed by the petitioners are as follows:

2.1 The Petitioner states that when the matter was posted for hearing on 20/09/2019 cost was imposed by this Court and the petitioner is unable to pay the cost within the stipulated period of time. It is neither willful nor wanton as the petitioner suffered illness. Hence, praying for permission to pay the cost.

3. The averments set out in the counter filed by Respondent as follows:

3.1 The respondent states that the Petitioner have not obeyed the conditional order of this Court and the petition for recall and reopen was also filed. The respondent further states that the petitioner didn't state any bonafide reasons and hence this present application is only to drag the case which is liable to be dismissed.

4. Now the point for consideration is whether the petitioner is entitled to get the relief as prayed for?

5. No oral or documentary evidence was adduced on the side of the Petitioners/Plaintiffs.

6. No oral or documentary evidence was adduced on the side of the Respondent/Defendant.

7. Both side arguments heard. Both side learned counsels have contended by reiterating the averments made in the petition, affidavit and counter.

8. On perusal of the records, it is found that this petition under section 151 of CPC was originally filed on 27/11/2019 for seeking permission to deposit the cost

imposed by this Court. The Counter was also filed on 05/03/2020. Since, then, there was no representation on many occasions by both the sides. Subsequently, an order was passed by this Court on 15/10/2020 which is as follows:

9. *“The Petitioner seeks permission to pay the costs, which he failed to make in I.A. 01/2019. The respondent contend that he cannot be given any opportunity for his failure as it was purely the outcome of bad intention. This Court held that an opportunity has to be given to this petitioner in the interest of Justice. Therefore, the petitioner is permitted to pay costs and report by 05/11/2020. The compliance was not reported since then.”*

10. The respondent side enquiry was again heard on 17/09/2021. The Petitioner side enquiry was also heard on 16/11/2021. It is observed that till date the petitioner didn't comply the Order of this Court dated 15/10/2020. This Court holds that the petitioner is liable for the act of willful disobedience to the order of this Court. This Court also holds that there is intentional act of disobedience. Hence, the present application is liable to be dismissed.

11. Section 151 is not a substantive provision which creates or confers any power or jurisdiction on Courts. It merely recognizes the discretionary power inherent in every Court as a necessary corollary for rendering justice in accordance with law, to do what is “right” and undo what is “wrong”, that is, to do all things necessary to secure the ends of justice and prevent abuse of its process.

This Court is of the opinion that the respondent has not shown any bonafide reason to substantiate his claim.

12. In the Result, this Court is inclined to dismiss this application in the interest of Justice. No order as to costs.

This Order was directly typed by me in my official laptop, corrected by me and pronounced by me in the open Court on this the 15th day of December 2021.

**Sd./- A. DHARANIDHARAN,
District Munsif,
Devakottai**

Annexures:

List of witnesses on the side of the Petitioners/Plaintiffs
NIL

List of documents on the side of the Petitioners/Plaintiffs
NIL

List of witnesses on the side of the Respondent/Defendant
NIL

List of documents on the side of the Respondent/Defendant
NIL

**Sd./- A. DHARANIDHARAN,
District Munsif,
Devakottai**

/True copy/