

IN THE COURT OF THE DISTRICT MUNSIF, DEVAKOTTAI

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

District Munsif, Devakottai

Monday, the 25th day of April, 2022

I.A. 03 / 2021

in

O.S. No. 29 / 2016

Kathoon Beevi

---Petitioner/Plaintiff

Vs

Fakir Mohammed

--Respondent/Defendant

This petition having been finally heard today 25.04.2022 in the presence of Mr. N. Sekar, the learned counsel for the Petitioner/Plaintiff and Mr. V. Sundar, the learned Counsel for Respondent/Defendant, 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 under Order IX Rule 9 of Civil Procedure Code seeking to restore the suit on the file of this Court that has been dismissed on 18.10.2021.

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

2.1 The Petitioner states that he is the Plaintiff of the main Suit and the suit has been instituted for the relief of permanent injunction restraining defendants, their men, agents, servants from in any manner interfering with plaintiff's peaceful possession and enjoyment over the suit property.

2.2 On 18/10/2021, when the suit was posted in the list, the petitioner could not attend the Court due to Jaundice and was under treatment, which resulted in the dismissal of the suit. The absence is neither wanton nor willful. Hence, the present petition to restore the suit.

2.3 The Petitioner contends that allowing of this petition will not cause any prejudice to the respondents and due to ill health, the petitioner didn't file the present application within the stipulated period of 30 days.

2.4 The respondent contended that the Hon'ble High Court of Madras in CRP (MD) 850/2017 has passed order in favor of the respondent and objects this present petition.

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

4. No oral or documentary evidence was adduced on the side of the Petitioner/Plaintiff.

5. No oral or documentary evidence was adduced on the side of the Respondents/Defendants.

6. Both the sides heard.

7. In fine, in the interest of Justice this petition will be allowed on fulfillment of the following conditions:

(a) That the petitioner shall pay Rs. 1000/- to the respondent or or before the next date of hearing.

(b) That the petitioner shall be present with proof affidavit for leading evidence on 06/04/2022 for commencement of Trial.

This Petition is allowed in the interes to Justice.

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 25th day of April, 2022.

**District Munsif,
Devakottai**

Annexures:

List of witnesses on the side of the Petitioner/Plaintiff
NIL

List of documents on the side of the Petitioner/Plaintiff
NIL

List of witnesses on the side of the Respondents/Defendants
NIL

List of documents on the side of the Respondents/Defendants
NIL

**District Munsif,
Devakottai**