

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.02.2015

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.R.P.(PD) NO.134 OF 2015
AND M.P.NO.1 OF 2015

M.S.Kumar

... Petitioner

Vs.

State Bank of Mysore
Attur Branch,
Represented by its Chief Manager
198, Kamarajanar Road,
Attur Town & Taluk,
Salem District.

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the docketal order dated 06.11.2014 made in I.A.No.336 of 2014 in O.S.No.159 of 2011 on the file of the Subordinate Judge, Attur.

For Petitioner : Mr.G.Arul Murugan

ORDER

This Civil Revision Petition is directed against the order dated 06.11.2014 passed in I.A.No.336 of 2014 in O.S.No.159 of 2011 by the learned Subordinate Judge, Attur.

2.The petitioner is the second defendant in the suit in O.S.No.159 of 2011, which was filed by the respondent for recovery of money. The petitioner was set exparte on 17.09.2012 for non-filing of the written statement.

3.Thereafter, the petitioner filed the application in I.A.No.336 of 2014 under Order IX Rule 7 of the Code of Civil Procedure to set aside the exparte order passed against him on 17.09.2012. The Trial Court allowed the application on 29.10.2014 on payment of cost of Rs.500/- to be paid to the respondent on or before 05.11.2014. The petitioner has not complied with the conditional order. Hence, the application was dismissed for default on 06.11.2014.

4.Challenging the order dated 06.11.2014, the present Civil Revision Petition is filed.

5.Mr.G.Arul Murugan, learned counsel for the petitioner has submitted that the Trial Court ought to have granted extension of time for paying cost. The learned counsel has further submitted that the petitioner is only a guarantor and there won't be any prejudice to the respondent in granting extension of time.

6.I am not able to agree with the contention raised by the learned counsel for the petitioner. The Trial Court, only to afford opportunity to the petitioner, set aside the exparte order on payment of cost of Rs.500/-. The petitioner has not given any explanation for non-compliance of the conditional order. Hence, I do not find any material irregularity or illegality in the order impugned in this Civil Revision Petition.

7.In the result, this Civil Revision Petition is dismissed. However, it is open to the petitioner to approach the Trial Court to seek extension of time for payment of cost and if any application is filed, the learned Judge shall consider and dispose of the same, on merits and in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

04.02.2015

Index : Yes/No
Internet : Yes/No
TK

To

The Subordinate Judge
Attur.

K.KALYANASUNDARAM, J.

TK

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