

KIN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.09.2015

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THE HONOURABLE MR.**JUSTICE D.HARIPARANTHAMAN**

C.R.P (PD) No.3890 of 2015

and M.P.No.1 of 2015

M/s.TINNA Overseas Ltd.,

... Petitioner

vs.

1.M/s.Jai Bharath Tanners

2.Bachi Shoes India Pvt Ltd.

.... Respondents

Civil revision petition has been filed under Article 227 of the Constitution of India against the order and decretal order dated 14.8.2015 made in I.A.No.10039 of 2015 in O.S.No.1248 of 2011 on the file of VII Additional City Civil Court, Chennai.

For petitioner : Mr.A.Thiagarajan

ORDER

The revision petitioner is the defendant in O.S.No.1248 of 2011 on the file of the learned VII Additional Judge, City Civil Court, Chennai. It is a suit for recovery of money. It is stated that the evidence on the side of plaintiff was over. While so, the defendant remained exparte and an exparte decree was passed on 3.7.2015.

2. Thereafter, the revision petitioner filed I.A.No.10039 of

2015 in O.S.No.1248 of 2011 to set aside the exparte decree passed on 3.7.2015 in O.S.No.1248 of 2011.

3. The Trial Court allowed the same on 11.8.2015 on condition that the revision petitioner shall pay cost of Rs.1,000/- to the plaintiff on or before 13.8.2015. The Trial Court has also imposed a condition that on 14.8.2015, the revision petitioner shall appear before the Trial Court and shall be ready to adduce evidence on his side. Further, in the said order, it is stated that if the condition is not complied with, the application would stand dismissed automatically.

4. According to the revision petitioner, though the revision petitioner was willing to pay the cost, the counsel for the plaintiff was not available. Hence, he filed a petition under Section 148 C.P.C. for extension of time to pay the cost and the same was returned by the Trial Court on 14.8.2015. Hence, he has filed the present revision petition questioning the order dated 14.8.2015 rejecting the application in I.A.No.10039 of 2015 in O.S.No.1248 of 2011 for not complying with the conditional order.

5. I have heard the learned counsel appearing for the petitioner.

6. The Trial Court thought it fit to pass the following order on 11.8.2015 in I.A.No.10039 of 2015 in O.S.No.1248 of 2011:-

" In the result, this petition will be allowed on payment of cost of Rs.1,000/- to the respondent on or before 13.8.2015, along with the condition that on 14.8.2015, the petitioner / defendant should appear before this Court at 10.30 a.m., and shall be ready to adduce evidence on his side, failing which this petition will stand dismissed automatically. Call on 14.8.2015. "

If the counsel for the plaintiff was not available for payment of cost, the revision petitioner should have deposited the same to the credit of O.S.No.1248 of 2011 with a memo. But, he failed to do so.

7. However, taking note of the fact that the Trial Court allowed the application in I.A.No.10039 of 2015 in O.S.No.1248 of 2011 with a condition to pay cost of Rs.1,000/-, the present revision petition is allowed, on condition that the revision petitioner shall deposit the cost of Rs.5,000/- (Rupees five thousand only) to the credit of O.S.No.1248 of 2011 on the file of learned VII Additional

Judge, City Civil Court, Chennai, on or before 14.10.2015, failing which the order of the Trial Court stands confirmed. The plaintiff is permitted to withdraw the amount. Further, the revision petitioner shall be ready to adduce evidence as directed by the Trial Court without seeking any adjournment. No costs. Consequently, connected miscellaneous petition is closed.

30.09.2015

Index:Yes/No
sbi

Note:

Issue order copy on 1.10.2015.

To

The VII Additional Judge,
City Civil Court, Chennai.

D.HARIPARANTHAMAN,J.

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