



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.06.2015

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

C.R.P.(PD) (MD) No.2280 of 2011

and

M.P.(MD) No.1 of 2011

K.Balakrishnan

...Petitioner / Appellant /
Petitioner / Defendant

-vs-

Manickam

...Respondent / Respondent /
Respondent / Plaintiff

PRAYER: Civil Revision Petition is filed, under Article 227 of the Constitution of India, against the fair and decreetal order, dated 25.07.2011, passed in C.M.A.No.2 of 2010, on the file of the Sub Court, Pudukkottai, against the fair and decreetal order, dated 07.12.2009, passed in I.A.No.318 of 2009, in O.S.No.89 of 2007, on the file of the District Munsif Court, Pudukkottai.

For Petitioner : Mr.K.Baalasundharam

For Respondent : Mr.S.Deenadhayalan

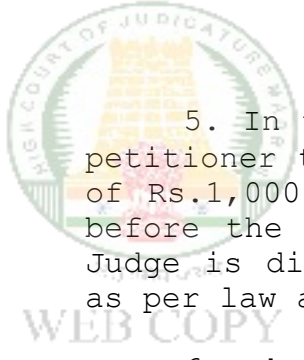
O R D E R

The respondent filed a suit in O.S.No.89 of 2007, before the learned District Munsif, Pudukkottai, against the petitioner herein, praying for a Judgment and Decree of recovery of money.

2. The petitioner was set *ex parte* on account of his failure to appear before the Trial Court. The Trial Court passed an *ex parte* decree on 05 January, 2009. The petitioner filed an interlocutory application in I.A.No.318 of 2009 to set aside the *ex parte* decree. The application was allowed by the learned Trial Judge subject to payment of Rs.10,000/- as costs. The order, dated 07 December, 2009 was challenged before the learned Subordinate Judge, Pudukkottai, in C.M.A.No.2 of 2010. The civil miscellaneous appeal was dismissed by the learned First Appellate Judge. The Decree, dated 25 July, 2011 is under challenge in this civil revision petition.

3. Heard the learned counsel for respective parties.

4. The respondent filed a suit, against the petitioner, claiming a sum of Rs.70,000/-. The petitioner failed to appear before the Trial Court and the same resulted in passing an *ex parte* decree. The learned Trial Judge allowed the application in I.A.No.318 of 2009 and set aside the *ex parte* decree. However, an onerous condition of depositing a sum of Rs.10,000/- was imposed by the learned Trial Judge. While imposing such a huge amount as costs, the learned Trial Judge failed to consider the fact that the very suit is only for a sum of Rs.70,000/-. I, therefore, do find considerable force in the submission made by the learned counsel for the petitioner.



5. In the result, the application in I.A.No.318 of 2009 filed by the petitioner to set aside the *ex parte* decree is allowed subject to payment of Rs.1,000/- as costs. The costs shall be deposited by the petitioner before the Trial Court, on or before 30 June, 2015. The learned Trial Judge is directed to take up the suit and decide the same on merits and as per law as expeditiously as possible.

6. The civil revision petition is allowed to the extent indicated above. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To:

1.The Subordinate Judge,
Sub Court, Pudukkottai.

2.The District Munsif,
District Munsif Court,
Pudukkottai.

+1cc to Mr.D.Rameshkumar, Advocate in SR.No.29566

+1cc to Mr.K.Baalasundaram, Advocate in SR.No.29256

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and

M.P.(MD) No.1 of 2011
10.06.2015

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