

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.03.2016

CORAM:

THE HONOURABLE DR.JUSTICE S.VIMALA

CRP (NPD) Nos.1053 and 1054 of 2010
and
M.P.No.1 of 2010

1. K.Baskaran
2. Mrs.K.Baskaran .. Petitioners in both CRP's

.Vs.

Sha Jeswanthraj Ashok Kumar
represented by its Proprietrix Mrs. Prathibala
Old No.90, New No.4, Godown Street,
Chennai-600 001 .. Respondent in both CRP's

Prayer in 1053 of 2010 : Revision Petition is filed under Article 227 of the Constitution of India, against the Fair and Decreetal order of the Learned XII Assistant City Civil Judge, Chennai dated 27.01.2010 in I.A.No.6538/2009 in O.S.No.5540/2005.

Prayer in 1054 of 2010 : Revision Petition is filed under Article 227 of the Constitution of India, against the Fair and Decreetal order of the Learned XII Assistant City Civil Judge, Chennai dated 27.01.2010 in I.A.No.6537/2009 in O.S.No.5540/2005.

For Petitioners : Mr.T.M.Hariharan
(in both CRP's)
For Respondent : Mr.S.Bhuvaneswaran
(in both CRP's) for M/s.D.Sankaran

COMMON ORDER

These Civil Revision Petitions have been filed challenging the common order dated 27.01.2010 in I.A.Nos.6537 and 6538 of 2009 on the file of the Learned XII Assistant City Civil Judge, Chennai.

2. The defendants are the revision petitioners.

2.1. The defendants filed an application seeking to condone the delay of 1029 days in filing the petition to set aside the exparte decree in I.A.No.6538 of 2009.

2.2. An application was filed in I.A.No.6537 of 2009 seeking stay of the execution of the decree dated 07.03.2008.

2.3. Both the applications were dismissed by the order dated 27.01.2010. Challenging the same, the defendants have filed these

revision petitions.

3. While considering the application for interim stay, this Court has passed the conditional order dated 22.03.2010 and accordingly the petitioner/judgment debtor has deposited 50% of the decree amount.

3.1. As the judgment debtor has deposited 50% of the decree amount, opportunity may be given to the judgement debtor to contest the case on merits. Learned counsel for the decree holder pleaded for a direction to dispose of the suit within a limited time frame to be fixed by this Court.

4. It was brought to the notice of this Court that the defendants/judgment debtor did not file the written statement. Therefore, this Court suggested that there can be a direction to dispose of the suit itself, provided the defendants should file the copy of the written statement, to be filed before the Lower Court. Mere direction to the Lower Court to dispose of the suit will not yield any result unless the defendants are made ready to file the written statement.

5. Towards showing their readiness towards trial of the suit, the first defendant has filed the copy of the written statement before this Court today after furnishing copy to the other side. In view of the subsequent conduct of the revision petitioners, the dismissal of I.A.No.6538 of 2009 is hereby set aside. The delay of 1029 days in filing the petition to set aside the exparte decree is condoned. The exparte decree is also set aside. The order dismissing the application for stay of execution is set aside. As the exparte decree is set aside the application for stay of execution is unnecessary and therefore I.A.No.6537 of 2009 is closed.

6. Inasmuch as the copy of the written statement is filed, the Court below is directed to frame issues within a period of one month from the date of receipt of a copy of this order and to dispose of the suit preferably within a period of three months thereafter.

7. These Civil Revision Petitions are disposed of with the above directions. No costs. Consequently, connected Miscellaneous Petition is closed.

7.1. The copy of the written statement is directed is to be despatched to the Court below along with the copy of this order.

29.02.2016

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To

The XII Assistant City Civil Judge, Chennai

S.VIMALA.J

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CRP (NPD) Nos.1053 and 1054 of 2010

29.02.2016

