

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.03.2016

CORAM

THE HONOURABLE MR. JUSTICE P.R.SHIVAKUMAR

C.R.P (PD) No.4418 of 2015

&

M.P.No.1 of 2015

T.Sundhar Singh

... Petitioner

vs.

M.Samuel Raja

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order of the learned XIV Assistant Judge, City Civil Court, Chennai in I.A.No.8468 of 2015 in O.S.No.1378 of 2015 dated 22.06.2015.

For Petitioner : Mr.N.Manokaran

for Mr.J.Franklin

For Respondent : Mr.V.Lakshmi Narayanan

for Ms.J.Hemamalini

ORDER

The defendant in O.S.No.1378 of 2013 filed under XXXVII Rule 1 and 2 of the Code of Civil Procedure, is the petitioner in the revision. He filed I.A.No.8468 of 2015 seeking leave to defend the suit. The said application was dismissed by the trial Court by the impugned

order dated 22.06.2015. Challenging the same, the present Civil Revision Petition has been filed under Article 227 of the Constitution of India.

2. The respondent has entered appearance through Counsel.

3. The learned counsel for the petitioner, on the previous date of hearing, after arguing for a while, took an adjournment to get instructions from the petitioner as to whether the petitioner was prepared to deposit a portion of the suit claim to the credit of the suit.

4. Today, the petitioner has filed an Affidavit of Undertaking expressing his willingness to deposit 50% of the face value of the cheque on which the suit came to be filed, to the credit of the suit to show his bonafide, as a step towards his getting leave to defend. By filing such an affidavit, the petitioner admits that leave can be granted only conditionally and not unconditionally.

5. Learned counsel for the respondent submits that if such conditional leave is granted, the respondent shall not have any grievance.

6. In view of the stands taken by both the petitioner and the respondent, which reveals a consensus regarding the condition on which leave has to be granted, the Civil Revision Petition is allowed. The order of the trial Court dated 22.06.2015 made in I.A.8468 of 2015 dismissing the said application in *toto* is set aside. I.A.No.8468 of 2015 is allowed and leave to defend is granted on condition that the petitioner therein / defendant deposits 50% of the Principal amount covered by the cheque within four weeks from today. In the event of default, the interlocutory application seeking to defend shall stand dismissed. Once such deposit is made, the trial Court shall invest the same in interest bearing Fixed Deposit so that the parties may not lose the interest. No costs. Consequently, connected miscellaneous petition is closed.

23.03.2016

Index: Yes/No
Internet: yes/No

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To
The XIV Assistant Judge,
City Civil Court, Chennai

P.R.SHIVAKUMAR.J

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