

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **02.11.2016**

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

C.R.P.(P.D.) No.2960 of 2016 and

C.M.P.No.15000 of 2016

1. T.S.Sivakannan

2. M.Srividhya

...Petitioners

versus

Reliance Asset Reconstructions Company Ltd.,
(RARC) in its capacity as Trustee of Reliance
- ARC – IB, Chennai having its registered office
at Reliance Centre, 19, Walchand Hirachand
Marg, Ballard Estate, Mumbai – 400 001,
corporate office at No.570, Rectifier House, 2nd
floor, Next to Royal Industrial Estate,
Naigum Cross Road, Wadaia, Mumbai – 400 031
rep by

M/s Indian Bank

Taramani Link Road Branch

Rep by its Branch Manager

Agent of the RARC

No.9, Sambandam Garden, Velacherry,
Chennai - 42

...Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the
Constitution of India to set aside the fair and Decreetal order passed in
I.A.No.7164 of 2016 in O.S.No.1498 of 2016 by XIII Asst. City Civil
Judge, Chennai dated 01.09.2016 and allow this Revision Petition.

For Petitioners : Mr.K.M.Subhramaniam

For Respondent : No appearance.

ORDER

This Civil Revision Petition is directed against the order dated 01.09.2016 whereby and whereunder the petitioners were directed to deposit 50% of the loan amount within 20 days as a condition precedent for grant of unconditional leave to defend suit in O.S.No.1498 of 2016.

2. Heard the learned counsel appearing for the petitioners. None appears on behalf of the respondent.

3. The petitioners were arrayed as defendants in O.S.No.1498 of 2016 filed by the respondent praying for a money decree with subsequent interest. The petitioners on appearance before the trial court filed application in I.A.No.7161 of 2016 to grant them unconditional leave to defend the suit. The learned Trial Court Judge by way of the Impugned order granted leave subject to certain conditions. The petitioners are aggrieved by the condition imposed by the Trial Court Judge that they shall deposit 50% of the loan amount within 20 days.

4. When the learned Trial Court Judge allowed the application and granted unconditional leave, there is no question of directing the petitioners to pay 50% of the loan amount within 20 days.

5. The Trial Court Judge allowed the application filed by the petitioners and granted unconditional leave. The trial court was therefore not correct in directing the petitioners to deposit 50% of the loan amount within 20 days. I am therefore of the view that the onerous condition is liable to be set aside. The order passed by the trial court judge is modified. The condition regarding deposit of 50% of the loan amount within 20 days is set aside.

The Civil Revision Petition is allowed as indicated above. No costs. Consequently, connected miscellaneous petition is closed.

02.11.2016

Index:Yes/No

Internet: yes / No

ssd

K.K.SASIDHARAN, J.

ssd

To

The learned XIII Asst. City Civil Judge, Chennai

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