

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.01.2016

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(NPD)No.32 of 2016 &

C.M.P.No.172 of 2016

State Bank of India
Commercial Branch
Represented by its Chief Manager
No.232, NSC Bose Road
Chennai – 1.

... Petitioner

v.

1.National Agricultural Co-operative Marketing
Federation of India Limited
No.158, Linghi Chetty Street
Chennai – 600 001.

2.M/s.Gnan Soon Bros., Trading
Syndicate Berhad at 172 Jalan Banda,
Hilis, Melaha,
Malaysia

3.Bank of Commerce (M) Berhad
189-190 Taman Mercha Raaya
Off.Jalan Parameswara Melha
Malaysia
Rep. By its Manager

4.M/s.Progress shipping /Company Ltd.,
APT.106, Block "B", Borasu Nagar Hale
Republic of Maldives

5.Maldiv Ship Management Ltd.,
P.B.No.2022, Metropolitan Ibrahim Harsan
Didi Nagar, Majestee Bazaar
Hale 2022, Republic of Maldives
Singapore – 0207
Rep. By P.S.T.S.

6.United India Insurance Co. Ltd.,
Divisional Branch Office at No.55,
Beach Road, P.B.No.107
Titucorin – 620 001
Rep. By its Branch Manger

7.P.V.R.Krishnaswamy Naidu & Sons
Having its office at Shivalaya Buildings
6th Floor, 1st Commander-in-Chief Road
Madras – 104
Rep. By its Manager

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the judgment and decree dated 13.08.2015 passed in I.A.No.16135 of 2014 in O.S.No.3938 of 1996 on the file of I Asst. City Civil Court, Chennai.

For Petitioner : Mrs. Thamaraiselvi
for Mr.M.L.Ganesh

O R D E R

Challenging the fair and final order passed in I.A.No.16135 of 2014 in O.S.No.3938 of 1996 on the file of I Asst Judge, City Civil Court, Chennai, the 3rd defendant has filed the above Civil Revision Petition.

2. The 1st respondent filed the Suit in O.S.No.3938 of 1996 for recovery of a sum of Rs.1,03,776.60 (Rupees one lakh three thousand seven hundred and seventy six and sixty paise only) together with interest.

3. Though the 3rd defendant bank filed their written statement, subsequently, they remained absent and the Trial Court passed an ex-parte decree on 12.07.2004. Thereafter, the 3rd defendant bank filed an application in I.A.No.16135 of 2014 to condone the delay of 3688 days in filing the application to set aside the ex-parte decree dated 12.07.2004.

4. In the affidavit filed in support of the application, the 3rd defendant bank has stated that the Panel Advocate, who was engaged by them to contest the matter, did not follow the matter in a proper manner, therefore, an ex-parte decree was passed on 12.07.2004. Further, the 3rd defendant has stated that they came to know about the ex-parte decree only when they received the summon in the Execution Proceedings. That apart, the 3rd

defendant bank has also stated that they got the details from the court after engaging another counsel.

5. When the ex-parte decree was passed on 12.07.2004 itself, the petitioner being a nationalized bank, they are not diligent in contesting the matter in a proper manner. The petitioner being a Nationalised bank, which is dealing with public money, they should be more careful in contesting the matter in a proper manner. But for the reasons best known to them, they kept quiet for more than 10 years for filing an application to set aside the ex-parte decree.

6. The Trial Court, while dismissing the application, rightly observed that the reasons given by the petitioner cannot be accepted for condoning the inordinate delay of 3688 days in filing the application to set aside the ex-parte decree. The inaction on the part of the petitioner would clearly establish that they were not diligent in contesting the matter in a proper manner. In the absence of any sufficient cause shown by the petitioner to condone the inordinate delay of 978 days in filing the application to set aside the ex-parte decree, the Trial Court has rightly dismissed the application.

7. In these circumstances, I do not find any error or irregularity in the order passed by the Trial Court. The Civil Revision Petition is devoid

of merits and is liable to be dismissed. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes/No

18.01.2016

Rj

To

The I Assistant Judge,
City Civil Court,
Chennai,

M. DURAISWAMY,J.,

Rj

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