

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2017

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THE HONOURABLE DR. JUSTICE P.DEVADASS

C.R.P.(NPD). No.3922 of 2013 and
M.P.No.1 of 2013

S.Murugesan ... Petitioner/Petitioner/Defendant

Versus

Mr.A.Manickam ...
Respondent/Respondent/Plaintiff

Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the order dated 13.09.2012 passed in I.A.No.715 of 2011 in O.S.No.122 of 2009 on the file of the learned Additional District Munsif, Tiruchengode.

For Petitioner : Mr.J.Bharathiraja
For Respondent : No appearance

ORDER

This revision arises out of the dismissal of I.A.No. 715 of 2011 which has been filed by the defendant to set aside the exparte decree passed against him on 13.09.2012.

2. Notice has been taken to the respondent as ordered. The

respondent's name also has been printed in today's cause list. Neither he nor any counsel on his behalf is present today.

3. The learned counsel for the revision petitioner would submit that along with the setting aside application, he has also filed written statement. The respondent is a money lender. He used to advance lesser amount, however extract promissory note for more amount and squeeze the debtors. Further, the rate of interest claimed is more than the rate of interest agreed. As the respondent was in a dominant position, he had take advantage of the financial situation of the defendant and made a make belief promissory note.

4. The learned counsel for the revision petitioner also contend that even as per the plaint, the principal amount is Rs.60,000/-. As per the orders of this Court dated 05.11.2013, he has also deposited Rs.40,000/-. He has deposited the substantial amount. In the circumstances, the revision petitioner may be given an opportunity to contest the suit on merits.

5. I have given my anxious consideration to the submissions of the learned counsel for the revision petitioner and perused the impugned order and the materials on record.

6. It is a fact that as per the directions of this Court, the revision petitioner/defendant had deposited Rs.40,000/- before the trial Court. Substantial amount has been deposited. In the facts and circumstances, let him have an opportunity of adjudication.

7. In the circumstances, ordered as under:

(i) This revision is allowed;

(ii) The impugned order and decretal order passed in I.A.No.715 of 2011 in O.S.No.122 of 2009 on 13.09.2012 by the learned Additional District Munsif, Tiruchengode, are set aside;

(iii) The said I.A.No.715 of 2011 stand allowed.

(iv) Delay is condoned;

(v) The application to set aside the exparte decree if already filed, if it is filed and not numbered, it shall be numbered and in the facts and circumstances, the learned Trial Court will take a liberal view in the setting aside petition.

Dr.P.DEVADASS,J

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8. Consequently, connected miscellaneous petition is closed.

07.03.2017

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To
The Additional District Munsif, Tiruchengode
Namakkal District.

C.R.P.(NPD). No.3922 of 2013

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