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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.11.2017

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CMA(MD)No.1065 of 2015

and

MP(MD)No.1 of 2015

Selvi ... Appellant/Petitioner/Petitioner/Defendant

Vs.

Parveen ... Respondent/Respondent/Respondent/Plaintiff

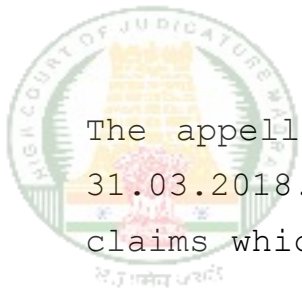
Prayer : Civil Miscellaneous Appeal is filed under Order XLIII Rule 1 of CPC, 1908, to set aside the fair and decreetal order dated 24.06.2015 made in I.A.No.52 of 2015 in I.A.No.297 of 2012 in OS.No.36 of 2008 on the file of Additional District & Session Court, Theni at Periyakulam.

For Petitioner : Mr.A.Arumugam
For Respondents : Mr.V.Janakiramulu

O R D E R

The appellant is the defendant in O.S.No.36 of 2008 on the file of Additional District & Sessions Court, Theni at Periyakulam. The said suit was filed by the respondent herein. It was a suit for specific performance. The suit was decreed as exparte. In order to set aside the same, a petition was filed on 18.09.2010. The suit petition was returned. In order to condone the delay in re-presenting, I.A.No.297 of 2012 was filed on 24.07.2012. The said petition was dismissed for non-prosecution on 10.09.2013. Thereafter, EP.No.57 of 2013 was filed by the plaintiff. In order to restore IA.No.297 of 2012, I.A.No.52 of 2015 was filed by the appellant herein. The same was dismissed on 24.06.2015. Challenging the same, this appeal has been filed.

2.In order to amicably resolve the issue, I called upon the appellant as well as the respondent to appear in person. Both of them appeared. It is admitted that a sum of Rs.12.00 lakhs was borrowed by the appellant from the respondent in the year 2006.



The appellant agrees to pay a sum of Rs.25.00 lakhs on or before 31.03.2018. This would be in full and final settlement of all claims which the respondent may have against the appellant.

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3.It is admitted by the respondent that she is in physical possession of the ground floor portion of the suit property. At the same time, receiving the said sum of Rs.25.00 lakhs, the respondent shall hand over the physical possession of the ground floor portion of the suit property of the appellant. Upon payment of the said sum of Rs.25.00 lakhs as indicated above to the respondent by the appellant, the decree dated 07.09.2010 in O.S.No.36 of 2008 on the file of Additional District & Sessions Court, Theni at Periyakulam, Theni shall stand set aside. The respondent shall return the documents of the appellant, if any, with her or her husband.

4.If the appellant fails to make the said payment as agreed, this CMA shall stand dismissed.

5.Accordingly, this appeal is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

1. Additional District & Sessions Judge,
Theni at Periyakulam.
2. The Record Keeper, Vernacular Section,
Madurai Bench of Madras High Court, Madurai.

+1cc to M/S.AJMAL ASSOCIATES, Advocate SR.No.90596.

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