



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.11.2017

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P. (PD) (MD) No.937 of 2014

S.Jothimani Ammal

...Petitioner/Petitioner/Defendant

/vs./

M.N.Mohammad Rafiq

...Respondent/Respondent/Plaintiff

PRAYER: Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order passed so far as cost is concerned in I.A.No.150 of 2013 in O.S.No.24 of 2012 dated 18.03.2014 on the file of the learned Principal District Judge, Thanjavur.

For Petitioner

: Mr.P.Velmurugan

For Respondent

: Mr.R.Vijayakumar

ORDER

The above Civil Revision Petition has been filed questioning the cost imposed by the learned Principal District Judge, Thanjavur to allow the application to set aside the exparte order.

2. The learned counsel for the petitioner would submit that the respondent herein has filed a original suit in O.S.No.24 of 2012. The petitioner herein remained exparte as the defendant did not appear before the Court. Hence, the petitioner has filed an Interlocutory Application to set aside the exparte decree passed on 07.12.2012 in a suit for specific performance. The Interlocutory Application was allowed to set aside the exparte decree on payment of cost of Rs.1,58,680.50/-, by the petitioner to the respondent, which is erroneous. Hence, the petitioner filed this Civil Revision Petition to set aside the fair and decreetal order passed so far as cost is concerned in I.A.No.150 of 2013 in O.S.No.24 of 2012 dated 18.03.2014. The learned counsel for the petitioner has also produced the judgment reported in **2007 (5) CTC 198** in the case of **D.K.Bhaskaran and another Vs. Barton Trust, a Registered Partnership Firm, represented by its partner, Mr.M.A.Chacko, Fair House, Porter Avenue, Coonoor, The Nilgris and another.**



3. The learned counsel for the respondent would submit that a reasonable cost may be fixed by this Court and prayed for a speedy disposal of the case.

4. Heard the learned Counsel for the petitioner, the learned counsel for the respondent and perused the materials available on record.

5. Having regard to the submissions made by the learned Counsel for the petitioner and also taking into consideration the limited prayer sought for in this Civil Revision Petition, this Court feels that the ends of justice would met by imposing a reasonable cost in allowing the appeal to set aside the exparte decree and accordingly, order passed by the learned judge is modified in respect of the cost alone and a sum of Rs.2,000/- is directed to be paid to the learned counsel for the respondent and the petitioner also paid the cost immediately before this Court.

6. Without expressing any opinion with regard to the merits of the case, this Court directs the learned Principal District Judge, Thanjavur to dispose the suit in O.S.No.24 of 2012 on merits and in accordance with law within a period of six months from the date of receipt of a copy of this order.

7. With the above directions, the Civil Revision Petition is disposed of. There shall be no order as to costs.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

The Principal District Judge,
Thanjavur.

+1cc to Mr.P.Velmurugan, Advocate Sr.No.86597
+1cc to Mr.R.Vijayakumar, Advocate Sr.No.86807

SM

VB/SV/MMS/SAR3/26/12/2017/2P/4C

C.R.P. (PD) (MD) No.937 of 2014

10.11.2017