

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.12.2018

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

C.R.P. (PD). No. 1296 of 2015

and

M.P. No. 1 of 2015

Chockalingam ...Petitioner

vs

Ravikumar ...Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the Fair and Decreetal Order dated 11.03.2015 made in I.A.No.182 of 2014 in I.A.No.116 of 2014 in O.S.No.6834 of 2013 on the file of the XV Additional City Civil Court, Chennai.

For Petitioner : M/s.R.Rajaramani

For Respondent : Mr.P.Jagadeesan

ORDER

The order under challenge is rejection of the petitioner's application filed under Order 9 Rule 7 of CPC praying to set aside the order of dismissal of interim application in I.A.No.116 of 2014, which had been filed to set aside the ex-parte order dated 19.06.2014.

2. The reasoning assigned by the Court below for rejecting the application is that there was no proper explanation for the petitioner's non-appearance, when the interim application was posted for enquiry and that the petitioner intends to drag on the proceedings.

3. The learned counsel for the petitioner submits that along with the application to set aside the ex-parte order, he had also enclosed the written statement. In the written statement, the defence that the petitioner herein intends to take is that the defendant had denied the execution of the pro-note itself and that the plaintiff had impleaded him on mistaken identity.

4. Though this Court does not find any infirmity in the findings of the Court below on the reasoning for rejecting the application, on a perusal of the averments in the written statement, it is felt that the petitioner herein may have triable and arguable issues before the trial Court. In order to secure the ends of justice, it would be appropriate to extend a sympathetic approach to the petitioner. However, this Court is also convinced of the fact about the prejudice that would have been caused to the respondent herein and as such, imposing a cost would the secure ends of justice.

5. In the light of the above observations, the order dated 11.03.2015 passed in I.A.No.182 of 2014 in O.S.No.6834 of 2013 is set aside. Consequently, the learned XV Additional City Civil Judge, Chennai is called upon to dispose of the application in I.A.No.182 of 2014, within a period of 30 days from the date of receipt of copy of this order.

6. The petitioner herein shall also pay a sum of Rs.10,000/- to the respondent herein and produce such proof of payment before the trial Court, within a period of 10 days from the date of receipt of copy of this order.

7. Accordingly, the Civil Revision Petition is disposed of. Consequently, connected Miscellaneous petition is closed.

05.12.2018

Index:Yes/No
Internet:Yes/No
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To
The XV Additional City Civil Court,
Chennai.

M.S.RAMESH.,J

jen/hvk



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