IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.02.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(NPD)No.4672 of 2015
& M.P.No.1 of 2015

M/s.Crescent Structurals
By its Proprietor
I.Parthiban
30/159, 1st Ward
Muthugoundar Nagar
Karumalaikoodal
Mettur Dam
Mettur Taluk
Salem District .. Petitioner

Vs.

M/s.NCP Service
By its Managing Director,
Goswami
Door No.301, Om Shree Apartments,
72, Ganapathi Nagar,
Nagpur 440 022
Maharashtra State .. Respondent

PRAYER: Civil Revision Petition filed under Section 115 of C.P.C to set aside the fair and decretal order dated 14.08.2015 made in I.A.No.718 of 2014 in O.S.No.114 of 2012 on the file of the Sub Court, Mettur.

For Petitioner : Mr.R.Surya Prakash
for Mr.A.Rajesh Kanna

For Respondent : Mr.V.Chandrasekaran

WEB COPY

http://www.judis.nic.in

O R D E R

This Civil Revision Petition is filed to set aside the fair and decretal order dated 14.08.2015 made in I.A.No.718 of 2014 in O.S.No.114 of 2012 on the file of the Sub Court, Mettur.

2.The petitioner is the plaintiff and respondent is the defendant in O.S.No.114 of 2012 on the file of the Sub Court, Mettur. The petitioner filed the said suit against the respondent for recovery of a sum of Rs.9,06.364/- with subsequent interest at 18% per annum from the date of plaint till date of realization. The respondent filed written statement on 14.06.2013 and trial commenced. The petitioner let in evidence and P.W.1 was examined in chief on behalf of the petitioner. The suit was posted for cross-examination on 27.03.2014. On that day, the counsel for respondent was not present and did not cross examine P.W.1. The respondent was called absent and set exparte and for hearing the arguments of counsel for the petitioner and for judgment, posted the suit on 02.04.2014 and exparte decree was passed on that day. The respondent filed I.A.No.718 of 2014 under Order IX Rule 13 and Section 151 of C.P.C to set aside the exparte decree dated 02.04.2014. According to the respondent, on 27.03.2014, when the

http://www.judis.nic.in

suit was posted for cross examination of P.W.1, his counsel was held up before Judicial Magistrate No.1 and before he could reach the Court, the respondent was set exparte and exparte decree was passed. The petitioner filed counter affidavit and opposed the said application and made various allegations on merits.

3.The learned Judge considering the averments in the affidavit, counter affidavit and the materials available on record, allowed the application on condition that the respondent pays a sum of Rs.1000/- as cost to the petitioner on or before 08.09.2015.

4.Against the said order dated 14.08.2015 made in I.A.No.718 of 2014 in O.S.No.114 of 2012, the petitioner has come out with the present Civil Revision Petition.

सत्यमेव जयते

5.Heard the learned counsel for the petitioner as well as the respondent and perused the materials available on record.

WEB COPY

6.From the impugned order of the learned Judge, it is seen that the suit was posted for cross examination of P.W.1 on 27.03.2014 by the counsel for the respondent. There was no representation on behalf of the respondent on that day. The

http://www.judis.nic.in

respondent was set exparte on that day and exparte decree was passed on 02.04.2014. The respondent filed I.A.No.718 of 2014 on 21.04.2014 to set aside the exparte decree. Considering the fact that suit is for recovery of a sum of Rs.9,06.364/- and respondent has filed written statement and is contesting the suit and has filed application to set aside the exparte decree within the time limit and as the respondent has given reason for non-appearance of his counsel, the learned Judge has allowed the application and awarded a cost of Rs.1000/- for the inconvenience caused to the petitioner. I hold that there is no irregularity or illegality warranting interference by this Court with the order of the learned Judge dated 14.08.2015 made in I.A.No.718 of 2014 in O.S.No.114 of 2012.

7.In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed. Since the suit is of the year 2012, the learned Judge is directed to dispose of the suit as expeditiously as possible, in any event not later than three (3) months from the date of receipt of a copy of this order.

19.02.2018

Index :: Yes/No
gsa

WEB COPY
http://www.judis.nic.in

To

The Subordinate Judge,
Mettur.

WEB COPY

http://www.judis.nic.in

V.M.VELUMANI,J.

gsa

C.R.P.(NPD)No.4672 of 2015
& M.P.No.1 of 2015

WEB COPY

19.02.2018

http://www.judis.nic.in