

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.10.2018

CORAM

THE HONOURABLE MR. JUSTICE M.S. RAMESH

CRP.(NPD)No. 2708 of 2018

and

C.M.P.No.15985 of 2018

VR.Chandran

...Petitioner

Vs

Syndicate Bank,
No.38, First Floor, SIC Building,
Anna Salai, Chennai-600 002.

...Respondent

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India praying to set aside the fair and decreetal order -Judgment and decree dated 04.04.2018 passed by VII Additional City Civil Court at Chennai in CMA No.146 of 2014.

For Petitioner : Mr. K.Murraltharam

For Respondent :Mr.P.Sreenivasulu

ORDER

The order under challenge in the present revision is the confirmation of the rejection order of the petitioner's application,

seeking to set aside the ex-parte order.

2. The reason assigned in the petitioner's application filed under Order 9 Rule 13 of the Code of Civil Procedure is that owing to exploring the possibility of amicably settling the issue before the respondent, adjournments were sought on two occasions and on the day when he was set ex-parte, the learned counsel was held up before this Court and therefore could not appear before the trial Court. The trial Court had rejected the petitioner's plea which was confirmed by the appellate Court also.

3. The present suit is one for recovery of money. The learned counsel for the respondent vehemently opposed the arguments of the counsel for the petitioner who had submitted that the suit claim is due from the year 1993 onwards and that the petitioner has been dragging on the proceedings from 1996. The petitioner has been put to serious prejudice and hardships, in view of the long pendency of this suit for more than 20 years.

4. The learned counsel for the petitioner, on the other hand, submitted that he had been consistently pursuing the suit and that after filing of his written statement and additional written statement,

issues have also been framed and it is only on one occasion that he could not be present before the trial Court for which he has given valid reasons.

5. In consideration of the submissions of the both counsels, I am of the view that the petitioner in his written statement appears to have certain triable and arguable defence and as such opportunity should be given to him in order to secure the ends of justice. Nevertheless, by also taking into account the interest of the bank which has been getting along with the suit for past more than 20 years, it would be appropriate to stipulate a time limit for completion of the trial.

6. In the light of the above observations, the order dated 04.04.2018 passed in CMA No.146 of 2014 on the file of the VII Additional City Civil Court, Chennai is set aside. As such, the order of the trial Court dated 31.10.2014 in I.A.No.17556 of 2013 is also set aside. The trial Court is hereby called upon to conduct the trial as expeditiously, if required, on a day to day basis and complete the same within a period of 30 days. The petitioner herein/third defendant is also directed to pay a cost of Rs.10,000/- to the respondent/plaintiff within a period of ten days from the date of receipt of a copy of this

order. Consequently, connected Miscellaneous Petition is closed.

25.10.2018

Index: Yes/No
Internet: Yes/No
dh

To
The VII Additional City Civil Court,
Chennai.



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M.S.RAMESH. J.,

dh



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