

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 23.04.2018

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

C.R.P.(NPD).Nos.967 to 969 of 2018 andC.M.P.Nos. 5190 to 5192 of 2018

M/s. J.B.associates,
a partnership firm,
Rep by its partnership
Jayagopal Reddiyar (Died)

1. J.Prabakar
2. J.diwakar
3. J.Baskar
4. J.Vijayalakshmi
5. Kavitha

... Petitioners in all CRPs

Vs.

1. R.K.Bharath Vasalu

... Respondent in CRP
Nos.967 & 969 of 2018

2. H.Sekar

... Respondent in CRP No.
968 of 2018

Prayer in all Civil Revision petitions: Civil Revision Petitions are filed under Article 227 of the Constitution of India, praying to set aside the Fair and Decreetal order of the learned District Judge, Vellore in I.A.Nos. 174, 175 & 176 of 2015 in O.S.Nos.89, 107 & 106 of 2007 dated 09.10.2017.

For Petitioners
in all CRPs

: Mr.M.Venkatakrishnan

For Respondents
in all CRPs

: Mr.A.U.Ilango
for caveator

ORDER

The relief sought for in all the revisions are to set aside the Fair and Decreetal order passed by the learned Principal District Judge, Vellore made in I.A.Nos. 174, 175 & 176 of 2015 in O.S.Nos.89, 107 & 106 of 2007 respectively, dated 09.10.2017.

2. The revision petitioners are the defendants in the suit in O.S.Nos.89, 107 & 106 of 2007 filed the Interlocutory Applications under Order IX Rule 13 of C.P.C in I.A.Nos. 174, 175 & 176 of 2015 in O.S.Nos.89, 107 & 106 of 2007 respectively, seeking to set aside the exparte decree dated 31.03.2015.

3. The first respondent is the plaintiff in the suit. The defendants/revision petitioners remained Ex-parte in the suit. The revision petitioners filed the Interlocutory applications to set aside the Exparte order. The Civil Miscellaneous Appeals were allowed as withdrawn and they filed the present revision in C.R.P Nos.967, 968, 969 of 2018.

4. The learned counsel for the petitioners would submit that at the time of passing orders, to set aside the Ex-parte order in I.A.Nos.174, 175 & 176 of 2015 in O.S.Nos.89, 107 & 106 of 2007, the trial Court imposed the cost of Rs.12,49,666/-, R.5,95,000/- & Rs.9,84,369/-respectively.

5. Aggrieved against the said order, the present revision petitions are before this Court.

6. According to revision petitioners, while imposing the cost, it should be reasonable and also in the similar proceedings taken in that proceedings Rs.40 lakhs have been deposited. Referring this cost, Court has directed to deposit a sum of Rs.12,49,666/-, R.5,95,000/- & Rs.9,84,369/-, each it is an unreasonable.

7. In support of his contention, the learned counsel for the revision petitioners relied on the decision of the Hon'ble Supreme Court reported in **CDJ (2015) SC 469** in the case of **M/s.GMG Engineering Industries & Others Vs. M/s.Issa Green Power Solution & Others**, wherein the relevant portions of the Judgment is observed in paragraph 9 is as follows:

"While exercising the discretion for setting aside the ex-parte decrees or condoning the delay in filing the application to set aside the ex-parte decrees, the Court is competent to direct the defendants to pay a portion of the decretal amount or the cost. In Tea Auction Limited vs. Grace Hill Tea Industry And Anr., (2006) 12 SCC 104: (2006) 9 SCALE 223, this Court has held as under:

15...A discretionary jurisdiction has been conferred upon the Court passing an order for setting aside an ex parte decree not only on the basis that the defendant had been able to prove sufficient cause for his non-appearance even on the date when the decree was passed, but also on other attending facts and circumstances. It may also consider the question as to whether the defendant should be put on terms. The Court, indisputably, however, is not denuded of its power to put the defendants to terms. It is, however, trite that such terms should not be unreasonable or harshly excessive. Once unreasonable or harsh conditions are imposed, the appellate Court would have power to interfere therewith..."

8. Heard, the learned counsel for the petitioners and carefully gone through the records and citation referred to by the learned counsel for the petitioners.

9. In the decision of the Hon'ble Supreme Court referred to by the learned counsel for the petitioner, it is clearly observed that if the order passed by the Trial Court is unreasonable, the High Court can fairly interfere

with the order passed by the trial Court. There is no quarrel with the proposition laid down in the decision referred to be learned counsel for the petitioner.

10. But, in this case, this Court does not find any valid reason to show that the order passed by the trial Court is unreasonable. Therefore, there is no reason to interfere with the order passed by the trial Court and there is no illegality or irregularity found in the orders passed by the trial Judge in I.A.Nos. 174, 175 & 176 of 2015 in O.S.Nos.89, 107 & 106 of 2007 respectively.

11. In the result, the Civil Revision petitions are dismissed. Consequently, connected Miscellaneous petitions are closed. No costs.

23.04.2018

Index:Yes/No

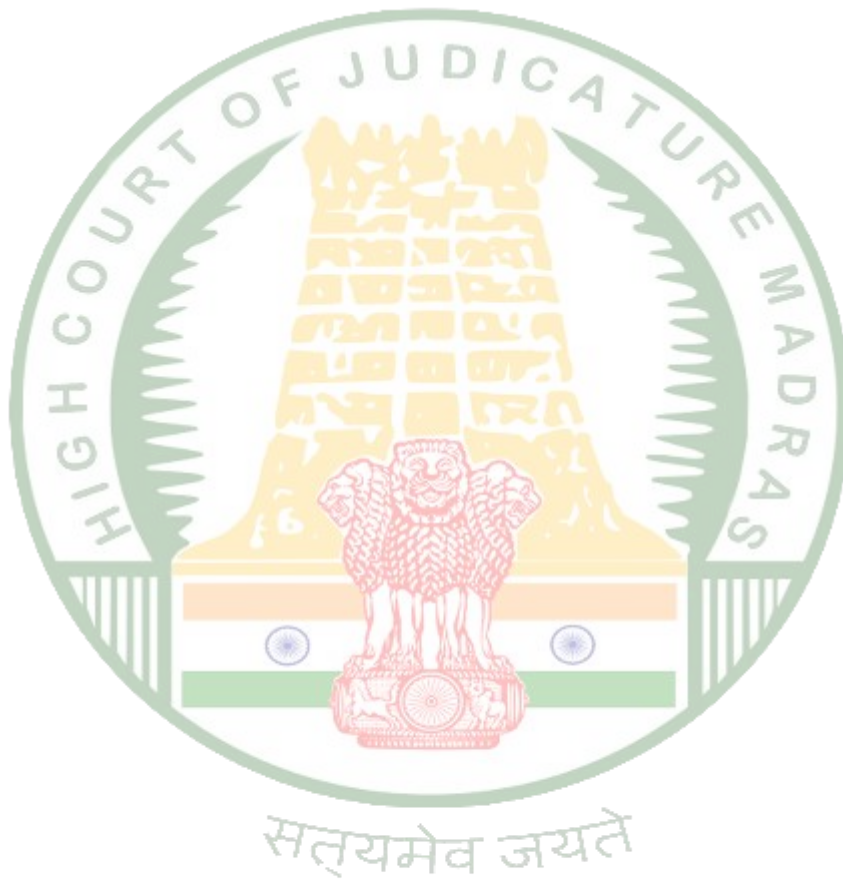
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To

The District Judge,
Vellore



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P.VELMURUGAN, J.,

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& C.M.P.Nos. 5190 to 5192 of 2018

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