

A.No.6976 of 2018
in C.S.No.9 of 2013

M.GOVINDARAJ,J.

This application is filed to set aside the order passed in A.No.1606 of 2018 in C.S.No.9 of 2013, dated 13.07.2018, by the learned Master.

2. Suit is for recovery of money of a sum of Rs.36,82,400/- with interest.

On service of summons, the applicants/defendants entered appearance and filed an application for leave to defend and thereafter failed to prosecute the case. The suit was decreed. Thereafter, the respondent/plaintiff initiated execution proceedings. At that stage, the applicants filed an application to set aside the ex-parte decree and sought for permission to contest the suit. There was a delay of 1141 days in filing the said application. The matter was posted before Master and, by an order, dated 13.07.2018, the application was dismissed for want of sufficient reasons to condone the delay, against which, this application is filed.

3. I have considered the rival contentions.

4. The Hon'ble Supreme Court, in very many cases, has categorically held that instead of rejecting the matter on technical grounds, it is better to decide the same on merits, to render substantial justice.

5. Therefore, this application is allowed, subject to the condition that the applicants/defendants shall deposit 50% of the principal amount, which is rounded off

to Rs.18,00,000/- before this Court to the credit of the suit, namely, C.S.No.9 of 2013 within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the Registry is directed to deposit the same in Indian Bank, High Court Branch, Chennai, in a re-investment scheme. Failure to deposit the amount by the applicants as stated above shall result in dismissal of this application automatically.

6. After the above order is passed, the parties have sought to refer the subject matter of the suit for mediation. Accordingly, subject to the deposit of the amount by the applicants/defendants as above, the matter is referred to Tamil Nadu Mediation and Conciliation Centre, High Court, Chennai, for mediation. The Mediation Centre is directed to complete the mediation process as per the rules within the stipulated time.

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14-09-2018

Note to Office :

Issue Order Copy by 17.09.2018

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