

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.03.2018

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.R.P. (PD) No.1312 of 2006
and M.P.No.1 of 2006

C.S.M.Sundaram @ C.S.Meenakshi Sundaram,
...Petitioner

vs.

1.Syndicate Bank, Nungambakkam Branch,
having office its Head Office at Manipal,
South Canara and Branch Office at No.7,
Nungambakkam High Road, Madras - 34.

2.M/s.Elpass, a partnership firm having
Office at No.8 Block, 8th Floor,
Parsn Gemini Buildings, Madras - 6.

3.K.S.Ram

4.Saraswathy Ranganathan

5.K.R.Sriramanarayanan

6.K.R.Gopalakrishnan

7.K.R.Chandramouleeswaran ...Respondents

Prayer: Civil Revision Petition filed under Article 227 of the
Constitution of India, against the Order and Decree made in IA
No.11958 of 2006 in OS No.15381 of 1996 dated 25.08.2006 on
the file of the IInd Additional City Civil Court, Madras.

For Petitioners : Mr.D.Rajagopal
For Respondents 1 to 7 : No Appearance

ORDER

The petitioner is the third defendant in the suit. The
instant Civil Revision Petition has been filed by the
petitioner against the order passed by the Trial Court in
I.A.No.11958 of 2006 in O.S. No.15381 of 1996, directing the
petitioner to pay 10% of the suit claim as a condition for
allowing the application I.A.No.11958 of 2006, seeking to set
aside the ex parte decree dated 25.08.2006 passed by the Trial
Court in O.S.No.15381 of 1996.

1.1.The suit was filed by respondent in O.S.No.15381 of 2006 for the recovery of a sum of Rs.7,63,022.56, together with interest and cost. The first defendant in the suit was a partnership firm who was the borrower and the remaining defendants were the partners of the first respondent.

1.2.The only ground on which the instant Civil Revision Petition has been filed is that the condition imposed by the Trial Court for allowing the application under Order 9 Rule 13 CPC to set aside the ex parte decree is onerous.

1.3.The petitioner has also not disputed the availing of the loan from the first respondent in the application filed before the Trial Court seeking to set aside the ex parte decree.

2.In the considered view of this Court, the condition imposed by the Trial Court for allowing the application seeking to set aside the ex parte decree is not onerous, as the Court has only directed the petitioner to deposit only 10% of the suit claim.

2.2.The Trial Court has also observed in the impugned order that originally the suit was filed before the High Court under its original jurisdiction in the year 1985 and it was transferred to the City Civil Court because of the change in the pecuniary jurisdiction and re-numbered as O.S. No.15381 of 1996. The Trial Court has also observed that the suit is pending for more than two decades and if the decree is set aside, the plaintiff will not be able to see the colour of the coin for another decade, which will put the plaintiff to great hardship and irreparable loss.

3.This Court is of the considered view that the Trial Court has rightly imposed condition on the petitioner to deposit 10% of the suit claim on or before 11.09.2006, for allowing the application to set aside the ex parte decree. There is no illegality or material irregularity in the order passed by the Trial Court.

Accordingly, there is no merit in the Civil Revision Petition and the Civil Revision Petition shall stand dismissed. Consequently, connected miscellaneous petition is closed. However, there shall be no order as to costs.

Sd/-
Deputy Registrar

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To,

The IInd Additional City Civil Court, Madras

+1cc to Mr.D.Rajagopal, Advocate Sr.No.23273

sm:12.4.2018

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