



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.03.2018

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P. (PD) (MD) No.1738 of 2017

and

C.M.P (MD) No.9428 of 2017

1.M/s.Alice Blue Commodities (P) Ltd.,
Rep. by its Managing Director,
C-2, Paramount Park,
Tambaram Main Road,
Velachery,
Chennai - 600 042.

2.M/s.Alice Blue Commodities (P) Ltd.,
Rep. by its Branch Manager,
D.No.130, II Floor, Alagarkoil Road,
Tallakulam,
Madurai - 625 002.

... Petitioners / Petitioners /
Defendants

vs.

G.S.Ramesh Babu

... Respondent / Respondent /
Plaintiff

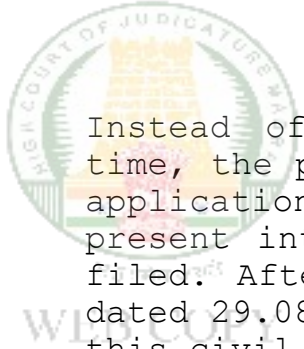
PRAYER: Petition filed under Section 115 of the Civil Procedure Code, to set aside the fair and decreetal order dated 29.08.2017 passed in I.A.No.244 of 2017 in O.S.No.959 of 2011 on the file of the III Additional Subordinate Judge, Madurai.

For Petitioner : Mr.K.Sivabalan
For Respondent : Mr.D.Srinivasa Ragavan

ORDER

This Civil Revision Petition has been filed to set aside the fair and decreetal order passed by the learned III Additional Subordinate Judge, Madurai, in I.A.No.244 of 2017 in O.S.No.959 of 2011 dated 29.08.2017.

2. The facts of the case are that the respondent herein/plaintiff has filed O.S.No.959 of 2011, against the petitioners herein/defendants, for recovery of money. The said suit was set ex-parte on 09.10.2015. Aggrieved thereby, the petitioners/defendants have filed an application to condone the delay of 360 days, in filing a petition to set aside the ex-parte. The said application was returned, citing some discrepancies.



Instead of rectifying and re-presenting the said application on time, the petitioners/defendants have re-presented the condone delay application with a delay of 141 days and to condone the same, the present interlocutory application in I.A.No.244 of 2017 came to be filed. After hearing both the sides, the lower Court, by an order dated 29.08.2017 has dismissed the said I.A., which is challenged in this civil revision petition.

3. During the course of arguments, before this Court, the learned Counsel appearing for the petitioners as well as respondent submitted that there was some possibility to settle the matter and therefore, prayed to refer the matter for mediation. In view of the same, this Court, by an order dated 14.12.2017, has referred the matter to the Mediation and Conciliation centre attached to this bench. Pursuant to the same, mediation was effected and the matter was settled between the parties. In this regard, a mediation report together with a Joint Compromise Memo dated 22.12.2017, signed by both the parties as well as their respective Counsel, were submitted before this Court.

4. Perusal of the Joint Compromise Memo would show that the following settlement has been entered into between the parties:

"(i) hereby the respondent agreed to give no objection regarding allowing of civil revision petition as well as to set aside the ex-parte decree;

(ii) hereby the petitioner's company agrees to give Rs.1,78,000/- as cash to the respondent outside the Court in full and final settlement when the suit in O.S.No.959/2011 is restored to file and the same is withdrawn by the respondent and further the respondent undertake to withdraw E.P.No.5 of 2016 in O.S.No.959 of 2011 before the III Additional Subordinate Judge, Madurai;

(iii) the petitioners do not have any objection to receive the court fee paid in O.S.No.959 of 2011 before the III Additional Subordinate Judge, Madurai, after withdrawing the suit;

(iv) the respondent hereby agree to receive the Rs.1,78,000/- as full and final settlement out of Court in respect of transactions mentioned in O.S.No.959 of 2011 before the III Additional Subordinate Judge, Madurai and he further undertakes that he will not raise the same issue in future; and

(v) Vasuki, the Branch Manager of the petitioner's company located in Madurai on behalf of the petitioner's company is empowered to enter the settlement with respondent."



5. In view of the same, the impugned order dated 29.08.2017 is set aside and accordingly, this civil revision petition is allowed, directing both the petitioners as well as respondent to strictly adhere as to the terms of the settlement arrived at between them. The suit in O.S.No.959 of 2011, which was decreed ex-parte on 09.10.2015 is restored to file, so that the respondent/plaintiff, by effecting the joint compromise memo dated 22.12.2017, shall receive the Court fee paid in O.S.No.959 of 2011. The joint compromise memo dated 22.12.2017, shall form part and parcel of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Crl.Side)

/True Copy/

Sub Assistant Registrar

Herewith enclosed the xerox copy of Joint Compromise Memo

To

The III Additional Subordinate Judge, Madurai.

+1CC to Mr.K.Sivabalan, Advocate, SR.No. 55749

+1CC to Mr.D.Srinivasa Ragavan, Advocate, SR.No. 53435

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AM/RSK/SAR 4/19.03.2018/3P/4C