



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.02.2018

CORAM :

WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

CRP (NPD) (MD) Nos.2038 and 2039 of 2017

S.Muniammal

... Petitioner in both CRPs/
Petitioner/Defendant

vs.

G.Pushpa

... Respondent in both CRPs/
Respondent/Plaintiff

Petitions filed under Section 115 of the Civil Procedure Code, against the fair and decreetal order dated 31.08.2017 passed in I.A.Nos.591 and 592 of 2016 respectively in O.S.No.221 of 2013 by the Principal Sub Court, Dindigul.

For Petitioner : Mr.S.Anand Chandrasekar for
M/s.Sarvabhauman Associates
For Respondent : No appearance

COMMON ORDER

These Civil Revision Petitions have been filed against the fair and decreetal order dated 31.08.2017 passed in I.A.Nos.591 and 592 of 2016 in O.S.No.221 of 2013 by the Principal Sub Court, Dindigul.

2.The revision petitioner is defendant and the respondent/plaintiff filed O.S.No.221 of 2013 on the file of the Principal Sub Court, Dindigul, for recovery of money based on promissory note. In the suit, the plaintiff side evidence was completed and the suit was posted on 05.07.2016 for the evidence on the side of the defendant. It is the case of the revision petitioner that due to boycott of Courts by Advocates on the particular date, he appeared before the Court and sought adjournment. However, the learned Judge did not grant adjournment and closed the defendant side evidence and passed the exparte decree on 05.07.2016. Hence, to set aside the same, the revision petitioner filed I.A.No.592 of 2016 along with I.A.No.591 of 2016 to condone the delay of 6 days in seeking to set aside the exparte decree. The Court below by impugned common order dated 31.08.2017 has dismissed the interlocutory applications, declining to condone the delay holding that the revision petitioner in order to prevent the plaintiff from enjoying the fruits of the decree has filed these applications with mala fide intention. As against the said order, these revision petitions have been filed.



3. Heard the learned counsel for the revision petitioner and perused the materials available on record. Despite service of notice, none appeared for the respondent either in person or through counsel. Hence, this Court is inclined to pass orders on the merits of the case.

4. Perusal of the impugned order shows that the plaintiff side evidence was closed on 07.01.2016 and for the defendant side evidence, the case was posted on 18.01.2016 and subsequently adjourned to 28.01.2016, 17.02.2016, 24.02.2016, 07.03.2016, 14.03.2016, 28.03.2016, 15.04.2016, 02.06.2016, 16.06.2016 respectively and finally on 05.07.2016, when the defendant appeared before the Court and sought adjournment on the ground of boycott of courts by the Advocate, the Court below observing that despite several opportunities, the defendant did not let in any evidence, closed the defendant side and evidence and passed ex parte order.

5. As observed above, though it is true that the suit was posted on various dates for the evidence of the defendant and the defendant did not avail the same, in my considered opinion, an opportunity could be given to the petitioner to meet the ends of justice. As the delay of 6 days is not inordinate, this Court is inclined to condone the delay. Accordingly, the impugned order dated 31.08.2017 passed in I.A.Nos.591 and 592 of 2016 in O.S.No.221 of 2013 is set aside and the Civil Revision Petitions are allowed. No costs.

Sd/-

Assistant Registrar (AE)

/True Copy/

Sub Assistant Registrar

To

The Principal Subordinate Judge,
Dindigul.

BALA

TE/SV-MMS/SAR-4 : 27/02/2018 : 2P/2C

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