



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 17.09.2018

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
C.R.P. (NPD) (MD) .No.1966 of 2016

and

C.M.P. (MD) No.9269 of 2016

Somasundaram

... Petitioner/Petitioner/Defendant
Vs.

Manickam

... Respondent/Respondent/Plaintiff

PRAYER : Petition filed under section 115 of CPC to allow the Civil Revision Petition and set aside the fair and decreetal order dated 09.02.2016 made in I.A.No.144 of 2015 in O.S.No.30 of 2013 on the file of the Sub-Court, Sivakasi.

For petitioner : Mr.P.Athimoolapandian
For Respondent : Mr.N.Dilipkumar
for Mr.Y.Jegadeesan

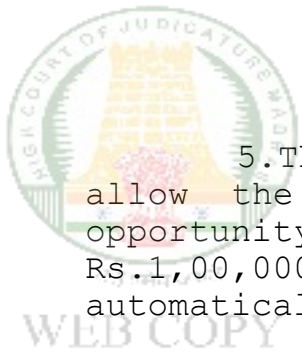
ORDER

The defendant in O.S.No.30 of 2013 on the file of the Sub Court, Sivakasi, is the revision petitioner herein. The respondent filed the said suit for recovery of sum of Rs.3,99,150/- with interest on the strength of a pronote. An ex parte decree came to be passed on 04.11.2013. To set aside the same. The revision petitioner filed an I.A., under Order 9 Rule 13 of CPC. There was a delay of 439 days. To condone the same, I.A.No.144 of 2015 was filed. The Court below dismissed the said I.A., by order dated 09.02.2016. Challenging the same, this Civil Revision Petition has been filed.

2.Heard learned counsel on either side.

3.This Court is of the view that the delay cannot said to be too inordinate. In any event, sufficient cause has been set out for condoning the same.

4.The learned counsel for the revision petitioner on instructions submitted that the revision petitioner shall deposit a sum of Rs.1,00,000/- to the credit of O.S.No.30 of 2013 within a period of four weeks from the date of receipt of a copy of this order. He also has no objection for the plaintiff to withdraw the said amount. But it would be without prejudice to the contentions of the revision petitioner in the main suit. If the suit is dismissed, the petitioner can definitely apply for recovery of the said amount. Subject to this condition, the order impugned in this Civil Revision Petition is set aside.



5.The Court below shall number the set aside application and allow the same. The revision petitioner is given one more opportunity to contest the suit on merits. If the amount of Rs.1,00,000/- is not paid, the order now passed will stand cancelled automatically.

6.The suit in O.S.No.30 of 2013 on the file of the Sub Court, Sivakasi, shall be disposed of within a period of six months from the date of receipt of a copy of this order.

7.Accordingly, this Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar (PRTOCOL)

/True Copy/

Sub Assistant Registrar (CS-III)

To

1.Subordinate Judge,
Sivakasi.

2.Record Keeper,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai. 2 COPIES

- 1 CC TO Mr.N.Dilipkumar , ADVOCATE IN SR No.84561.
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- PNN
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ORDER MADE IN
C.R.P. (NPD) (MD) .No.1966 of 2016
and
C.M.P. (MD) No.9269 of 2016
17.09.2018