



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.09.2018

CORAM

THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN

C.R.P.NPD[MD]No.2626 of 2016

WEB COPY

Arunachalam : Petitioner/Petitioner/Plaintiff
Vs.
Yamuna : Respondent/Respondent/Defendant

PRAYER: Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure, praying to set aside the fair and decreetal order dated 17.03.2016 passed in I.A.No.650 of 2015 in O.S.No.14 of 2006 on the file of the learned District Munsif Court, Pattukkottai, Thanjavur District by allowing this Revision Petition and issue appropriate orders as this Hon'ble court may deem fit and proper under the circumstances of the case.

For Petitioner : Mr.V.S.Badrinath
For Respondent : Mr.R.Murugeshwari

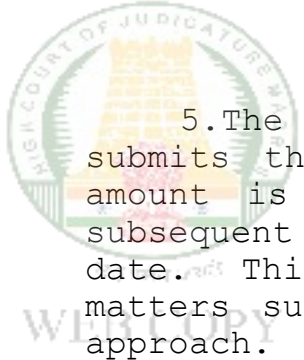
ORDER

The plaintiff in O.S.No.14 of 2006, on the file of the District Munsif Court, Pattukkottai is the revision petitioner herein. The said suit was for foreclosing the mortgage executed by the respondent herein. Preliminary decree was passed on 17.07.2006. The petitioner herein should have filed a final decree application within three years. He did not do so. When that was pointed out, the petitioner herein filed a petition. There was a delay of more than 1998 days delay. To condone the same, I.A.No.650 of 2015 was filed. The petitioner put forth certain grounds for condonation. They did not find favour with the Court below. Therefore, the said Interlocutory Application was dismissed. Challenging the same, this Civil Revision Petition has been filed.

2.Heard the learned Counsel on either side.

3.The learned Counsel appearing for the respondent submitted that the delay occasioned in this case is inordinate and does not warrant any condonation. She wanted this Court to dismiss this Civil Revision Petition.

4.Admittedly, the respondent herein executed a mortgage deed in favour of the revision petitioner. She has borrowed a sum of Rs.35,000/- [Rupees Thirty Five Thousand only] in the year 1993 and the same amounted to Rs.1,10,000/- [Rupees One Lakhs and Ten Thousand only] along with 6% interest. Preliminary decree was passed for a sum of Rs.81,025/- [Rupees Eighty One Thousand and Twenty Five Only]. This was the liability of the respondent as early as in the year 2006.



5.The learned Counsel appearing for the revision petitioner submits that the revision petitioner would be satisfied if this amount is paid. In other words, he is willing to waive the subsequent interest accrued from the date of preliminary decree till date. This Court finds such offer to be fair and reasonable. In matters such as this, the Court will have to adopt an indulgent approach. The revision petitioner is after all a creditor. Therefore, the order impugned in this Civil Revision Petition is set aside. The Court below shall number the final decree petition and dispose of the same on merits and in accordance with law within a period of six [6] months from the date of receipt of a copy of this order. It is made clear that the liability of the respondent is quantified at Rs.81,025/- [Rupees Eighty One Thousand and Twenty Five only]. In other words, the revision petitioner will not be entitled to subsequent interest from the date of preliminary decree till date. The liability of interest will accrue from today.

6.The Civil Revision Petition stands allowed, accordingly. No costs.

Sd/-
Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar(CS-II)

To
The District Munsif Court,
Pattukkottai,
Thanjavur District.

C.R.P.NPD[MD]No.2626 of 2016
19.09.2018

MR
ES/SKN/RSK/SAR 2/30.11.2018/2P/2C