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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.08.2018

CORAM

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

C.R.P. (MD) .No.1552 of 2018

and

C.M.P. (MD) No.6791 of 2018

S.Murugesan

... Petitioner/Petitioner/
Opposite Party

Vs.

P.Senthil Selvan

... Respondent/Respondent/
Complainant

PRAYER : Civil Revision Petition is filed under Article 227 of Constitution of India, to allow this Civil Revision petition and thereby set aside the Order dated 27.06.2018 in unnumbered C.M.P.No. of 2018 in C.C.No.72 of 2015 passed by the District Consumer Disputes Redressal Forum, Tuticorin, and direct to take the unnumbered C.M.P.No. Of 2018 in C.C.No.72 of 2015 on file and dispose on merits.

For Petitioner

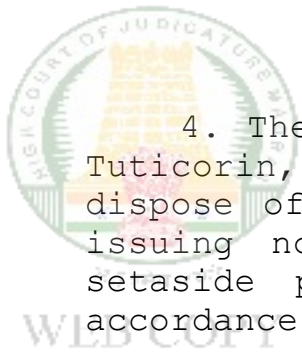
: Mr.B.Rajesh Saravanan

O R D E R

The Revision petitioner was shown as opposite party in C.C.No.72 of 2015 on the file of the District Consumer Disputes Redressal Forum, Tuticorin.

2. The petitioner suffered an ex-parte order. To set aside the same, the petitioner filed an application under Order 9 Rule 13 of C.P.C. There was a delay in filing such application. Therefore, the petitioner filed the setaside petition along with condone delay petition. The District Consumer Disputes Redressal Forum declined to number the same on the ground that it has no power. Therefore, it returned both the applications. The same is questioned in this Civil Revision petition.

3. As rightly contended by the learned counsel for the Revision petitioner, the District Consumer Disputes Redressal Forum has the power to entertain the application to set aside the ex-parte order. Since the power is incidental and ancillary in nature, it should be implied in the absence of any statutory prohibition. The learned counsel placed reliance on the decision reported in **1996 (II) C.T.C. 84 (Indian Bank V. District Consumer Disputes Redressal Forum)**.



4. Therefore, the District Consumer Disputes Redressal Forum, Tuticorin, is directed to number the condone delay petition and dispose of the same on merits and in accordance with law, after issuing notice to the complainant. Then, it shall number the setaside petition and dispose of the same on merits and in accordance with law.

5. With these directions, the Civil Revision petition stands allowed. No costs. The Registry is directed to return the original setaside petition as well as the condone delay petition filed by the Revision petitioner. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar(crl side)

/True Copy/

Sub Assistant Registrar(CS-III)

To

1. The District Consumer Disputes Retressal Forum, Tuticorin.
2. The Record Keeper, (2 copies)
V.R.Section,
Madurai Bench of Madras High Court, Madurai.

+1cc to Mr.B.Rajesh Saravanan, Advocate Sr.No.79426

PMU

VB/RP/SAR3/06.09.2018/2P/5C

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