



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 28.09.2018
CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (MD) .No.1778 of 2018

WEB COPY

Rajamani

... Petitioner/Petitioner/
Defendant No.1

Vs.

1. The Canara Bank,
through its Branch Manager,
Chidambaram Nagar Branch,
Thoothukudi.

... Respondent/Respondent/
Plaintiff

2. Durairaj

... Respondent/Respondent/
2nd Defendant

PRAYER : Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order dated 19.07.2018 passed in I.A.No.902 of 2016 in O.S.No.193 of 2003 on the file of the Sub Court, Thoothukudi, Thoothukudi District and to allow this Civil Revision petition.

For Petitioner: Mr.R.Murugappan
For R-1 : Mr.Pala.Ramasamy
For Respondent
No.2 : Died

O R D E R

The first defendant in O.S.No.193 of 2003 on the file of the Subordinate Court, Thoothukudi, is the Revision petitioner herein. The suit was instituted by the first respondent Bank for payment of a sum of Rs.3,86,914/- with interest. The suit was decreed ex-parte. To set aside the same, the Revision petitioner filed an application. However, there was a huge delay of 2162 days in filing the set aside petition. To condone the same, I.A.No.902 of 2016 was filed. The Court below dismissed the said Interlocutory application by order dated 19.07.2018. Questioning the same, this Civil Revision petition has been filed.

2. The learned counsel appearing for the Revision petitioner submitted that the Revision petitioner is only a guarantor. The property in question is a house in which the Revision petitioner is residing with his family. This Court wanted to test the bona fides of the Revision petitioner. I called upon the Revision



petitioner to deposit a sum Rs.5,00,000/- to the credit of the suit in question. The Revision petitioner has shown his bona fides by depositing the amount. It is also seen that the Revision petitioner's sister who availed the loan has also passed away.

3. Taking note of the hardships suffered by the Revision petitioner and in view of the deposit of a sum of Rs.5,00,000/- made by the Revision petitioner, this Court sets aside the order impugned in this Civil Revision petition. The Court below is directed to condone the delay in filing the set aside application and permit the defendant to contest the suit on merits. It appears that pursuant to the ex-parte decree, further proceedings have taken place. That is the submission of the learned counsel for the Bank. Since the purchasers are not parties before this Court, this order now passed by this Court will not have any bearing on their rights.

4. With these observations, this Civil Revision petition stands allowed. No costs.

Sd/-

Assistant Registrar (Writs)

// True Copy //

Sub Assistant Registrar (CS-IV)

To

The Subordinate Judge,
Thoothukudi, Thoothukudi District.

+ 1 CC TO MR.PALA.RAMASAMY , ADVOCATE IN SR NO.88136
+ 1 CC TO MR.R.MURUGAPPAN, ADVOCATE IN SR NO.88021

PMU

BU/NM/RP/SAR-IV :26.11.2018 : 2P/4C

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