

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.11.2019

CORAM:

THE HON'BLE Mr. JUSTICE R.PONGIAPPAN

Civil Revision Petition (PD) No.3836 of 2014

and

M.P.No.1 of 2014

V.Anbalagan

Petitioner

Vs

HDFC Bank Ltd
Rep by its Manager
No.4 & 5, Vallar Abirami Plaza
45 Feet Road
Pondicherry

Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the Fair and Decretal order dated 11.09.2014 passed in I.A.No.19902 of 2011 in O.S.No.11891 of 2009, on the file of the III Assistant City Civil Court, Chennai.

For Petitioner : M/s.G.Murugendran

For Respondent : Mr.V.Achuthanandan for
M/s.Pass Associates

ORDER

The plaintiff in OS No.11891 of 2009 on the file of III Assistant City Civil Court, Chennai is the petitioner herein. He has

preferred the above referred suit for the relief of mandatory injunction restraining the defendants, their men, agents, servants, or anyone acting on their behalf from in anyway depositing the cheques bearing Nos.578446 to 578651 drawn on ICICI Corporation Bank, Thiruvallur Branch. Further, he prayed for the relief of permanent injunction restraining the defendant their service staffs, henchmen or any one acting on their behalf from in any way harassing and ceasing the vehicle TATA Indica bearing Reg.No.TN 07 AP 7304.

2. During the time of trial, on 19.09.2011, for the reason that the plaintiff has not appeared before the Court, the learned trial Judge has dismissed the above said suit for default. Aggrieved over the same, the petitioner has preferred an application in IA No.19902 of 2011 under Order IX Rule 9 of Civil Procedure Code, to set aside the order of dismissal made in OS No.11891 of 2009. By an order dated 11.09.2014, the learned III Assistant City Civil Judge, Chennai had allowed the application with a condition that the petitioner has to make payment of the outstanding dues to the tune of Rs.2,20,288/- on or before 07.10.2014, failing which, the petition stands dismissed.

3. Challenging the said order, the petitioner has filed this Civil Revision Petition and also obtained an order of stay on 13.10.2014. However, the said order dated 13.10.2014 has not been extended further.

In the said circumstances, since the conditional order passed by the III Assistant City Civil Judge has not been complied with by the petitioner, the same was dismissed on 20.08.2019 and thereafter restoration application has been filed to restore IA No.19902 of 2011 and the same was pending with III Assistant Judge, Chennai in IA No.1 of 2019. The said fact was intimated to this Court, by the petitioner by way of filing a memo dated 16.10.2019. As per the memo filed by the petitioner, as of now the order and application filed in IA No.19902 of 2011 is not in existence. Hence, the said circumstances leads to the situation that the Civil Revision Petition will become infructuous. However, since the application filed under Order 9 Rule 9 to restore IA No.19902 of 2011 is pending with the same Court in IA No.1 of 2019, it is appropriate to issue some direction to the learned trial Judge for early disposal.

4. In the light of the above discussions, the Civil Revision Petition is dismissed as infructuous. No cost. Consequently, connected Miscellaneous petition is closed. The learned III Assistant City Civil Judge, Chennai is directed to dispose of IA No.1 of 2019, as early as possible, preferably within a period of two months from the date of receipt of copy of this Order.

11.11.2019

vrn

R.PONGIAPPAN, J.,

vrn

To

The III Assistant City Civil Court, Chennai



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