

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

TUESDAY, THE 03RD DAY OF SEPTEMBER 2019

THE HON'BLE MRS. JUSTICE PUSHPA SATHYANARAYANA

A. No.5284 of 2019

in

C.S.No.820 of 2013

C.S.No.820 of 2013:

1. Mrs.Premalatha Pappuraja,
W/o.Late N.A.Pappu Raja

2. Aswath Raja,
S/o.Late N.A.Pappu Raja

Both at No.214/215, Pappu Raja Street, Dharmapuram,
Rajapalayam Town and Taluk,
Virudhunagar District. ..Plaintiffs

-VS-

1.N.A.Kannan Raja,
S/o.N.A.P.Alagiri Raja,
No.1, Gandhiji Road, NRT Nagar,
Theni.

2. N.A.Pethu Raja,
S/o.N.A.P.Alagiri Raja,
150, T.P.Mills Road,
Cotton Market,
Rajapalayam.

3.The Regional Manager,
Head Office,
Indian Overseas Bank,
Mount Road,
Madras

..Defendants

A.No.5284 of 2019:-

1. N.A.KANNAN RAJA
S/O.N.A.P.ALAGIRI RAJA,
NO.1 GANDHIJI ROAD,
NRT NAGAR, THENI.

..Applicant/1st Defendant

-VS-

1. MRS.PREMALATHA PAPPURAJA,
W/O.LATE N.A.PAPPU RAJA

2. ASWATH RAJA
S/O.LATE N.A.PAPPURAJA

Both at No.214/215, Pappu Raja Street,
Dharmapuram, Rajapalayam Town and Taluk,
Virudhunagar District. ..Respondents/Plaintiffs

3. N.A.Pethu Raja,
S/o.N.A.P.Alagiri Raja,
150, T.P.Mills Road,
Cotton Market,
Rajapalayam.

4.The Regional Manager,
Head Office,
Indian Overseas Bank,
Mount Road,
Madras ..Respondents 3 and 4/Defendants 2 and 3

Application praying that this Hon'ble Court be pleased to pass an order setting aside the exparte order passed against the applicant on 18/04/2017 and permitting the applicant to prosecute the case on merit.

This application coming on this day before this court for hearing the court made the following order:

The application is filed by the applicant / first defendant seeking to set aside the ex-parte order dated 18.04.2017 passed in the above said suit.

2. It is stated by the applicant / first defendant that the suit summons were served on him on 20.01.2014. There were some disputes between the applicant and the respondents in running a Spinning Mill. It is further stated that the applicant / first defendant is an heart patient and he is leading his life with the help of a phase maker and with non cooperation of the plaintiffs, he had to carry on activities of the Spinning Mill. Therefore, he could not engage an Advocate in Chennai to pursue the matter on his behalf. Since he could not enter vakalat and

pursue the matter in filing the written statement in the suit, he was set ex-parte on 18.04.2017. According to the applicant, due to his health problem, he could not file the written statement in time, which is neither wilful nor wanton. Hence, this application is filed seeking to set aside the ex-parte order dated 18.04.2017.

3. Heard the learned counsel appearing for the applicant/first defendant and the learned counsel for the respondents.

4. Learned counsel for the respondents/plaintiffs has got no serious objection in allowing this application.

5. Being satisfied with the reasons stated in the affidavit filed in support of the application, the application stands allowed and the ex-parte order dated 18.04.2017 passed against the first defendant is hereby set aside.

6. Post the suit on 17.09.2019 under the caption 'for framing issues'.

Sd/.P.S.N.J.

03.09.2019

//Certified to be a true copy//

Dated this the day of 2019.

SU/10/09/2019

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.