



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.RAJA

C.R.P.NPD (MD)No.499 of 2012

R.Sheik Daewood : Petitioner /Petitioner/
Defendant/Petitioner

Vs.

M/s.K.M.K.Enterprises,
Karur, represented by its partner,
K.Nagarajan,
S/o.K.M.Kuppusamy,
M.Kulandaivel Salai,
Karur - 1.

: Respondent/Respondent/
Plaintiff/Respondent

PRAYER: Civil Revision Petition under Section 115 of CPC, against the return of I.A.S.R.No.13803 of 2011 dated 14.12.2011 in I.A.No.231/2010 in O.S.No.43 of 2007 on the file of District Court, Karur.

For Petitioner : Mr.K.Govindarajan
For Respondent : No appearance

O R D E R

This Civil Revision Petition has been directed against the impugned fair and decreetal order dated 14.12.2011 passed in I.A.S.R.No.13803 of 2011 in I.A.No.231 of 2010 in O.S.No.43 of 2007 by the learned District Judge, Karur, in and by which, the trial Court returning the review application to review the order refusing to condone the delay of 269 days in filing application to set aside the exparte decree dated 30.09.2011.

2.The petitioner is the defendant in O.S.No.43 of 2007 filed for recovery of Rs.18,44,789/- and that was proceeded exparte setting the petitioner/defendant exparte on 12.08.2009. After 269 days from the date of passing the exparte decree, I.A.No.231 of 2010 has been filed to condone the delay on 07.06.2010. The learned District Court directed the petitioner/defendant to deposit Rs.4,50,000/-, nearly half of the Principal Amount within eight weeks from 30.09.2011. That conditional order has not been complied with.



3.Learned counsel appearing for the petitioner would submit that the condition to deposit half of the principal amount is wholly unfair and unjustifiable.

4.This Court hardly finds any merit in the submission made by the learned counsel appearing for the petitioner. The suit for recovery of money was filed in the year 2007 on 12.09.2007 on the file of the learned District Judge, Karur. The petitioner/defendant filed the written statement on 30.10.2008. After two years from the date of filing of the suit, the petitioner was set exparte on 12.08.2009. I.A.No.231 of 2010 to condone the delay of 269 days in filing the petition to set aside the exparte decree was filed on 07.06.2010. This shows that the petitioner/defendant has no valid justification to defend the main suit. Secondly, when there was a direction to pay half of the principal amount to condone the delay of 269 days in filing the petition to set aside the exparte decree, that amount has not been paid and only to prolong the matter the petitioner has filed the review petition. The petitioner has not shown any error apparent on the face of the order to review the same. Hence, the trial Court is right in passing the order dated 14.12.2011, returning the review petition. Hence, this Civil Revision Petition is liable to be dismissed.

5.Accordingly, the Civil Revision Petition is dismissed. No costs.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

To

The District Judge,
Karur.

+1 CC to M/s.K.GOVINDARAJAN, Advocate (SR-106378[F] 20/12/2019)

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sj
SDS(31.01.2020) 2P-3C