



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **24.04.2019**

CORAM :

THE HONOURABLE MRS.JUSTICE **S.RAMATHILAGAM**

WEB COPY

CRP(MD) No.724 of 2019

and

C.M.P. (MD) No.4211 of 2019

Pandi Meena

... Petitioner/Petitioner/Defendant

vs.

Sivakumar

... Respondent/Respondent /Plaintiff

PRAYER:- Civil Revision Petition filed under Section 115 of the Code of Civil Procedure, to set aside the fair and decreetal order dated 09.01.2019 made in I.A.No.890 of 2018 in O.S.No.289 of 2016 on the file of the learned Principal District Munsif, Manapparai.

For Petitioner

: Mr.T.Balakumaran

ORDER

This Civil Revision Petition has been filed to set aside the order dated 09.01.2019 made in I.A.No.890 of 2018 in O.S.No.289 of 2016 on the file of the learned Principal District Munsif, Manapparai.

2.I.A.No.890 of 2018 was filed by the petitioner/defendant. In the said I.A., the petitioner contended that the suit in O.S.No.289 of 2016 was filed by the plaintiff against her for recovery of money and she has no knowledge about the said proceedings and now, she is living with his brother one Velpandian. Further, the petitioner contended that she is an illiterate woman depending upon her brother and also due to her financial difficulty and old age, she could not meet her previous counsel to furnish the details of the case on 30.06.2017 and because of that she was called absent and set ex parte and due to the same, she lost her opportunity to cross-examine the respondent/plaintiff.

3.Further, the petitioner/defendant contended that she has very good case in the suit and only due to her financial difficulty, she could not proceed with the case in appropriate time. Now, she has come to know about the attachment notice, which was affixed in her brother's house.

4.On the other hand, the respondent/plaintiff in his counter statement contended that the averments made in the petition are not acceptable one. In pursuant to the decree for recovery of a sum of Rs.75,000/- on pro note, E.P.No.33 of 2018 was filed and the petitioner/defendant without even depositing the amount after the decree was passed, filed the said I.A., petition, which is not



sustainable and the reasons to condone the said delay have not been properly explained by the petitioner/defendant. Hence, the said petition has to be dismissed.

5. After observing the contention raised on either side, the trial Court has given a finding that the delay for each and every day was not substantiated with sufficient evidence and the petitioner has also not examined any witnesses in support of her claim and she also filed a petition seeking for attachment of property. Hence, the application in I.A.No.890 of 2018 to condone the delay of 383 days in filing the petition to set aside the ex parte decree was set aside, against which, the petitioner/defendant has filed the present Civil Revision Petition.

6. Heard the learned counsel for the petitioner.

7. The petitioner contended the same facts, which was already discussed by the trial Court that she is an illiterate woman depending upon her brother and also due to her financial difficulty and old age, she could not meet her previous counsel to furnish the details of the case.

8. In view of the facts and contentions raised by the petitioner/defendant and also on verifying the records, with a view to give an opportunity to the petitioner, this petition is allowed on condition that the petitioner/defendant shall deposit a sum of Rs.1,46,031.50/- to the credit of the suit within a period of two weeks from the date of receipt of a copy of this order, failing which, the Civil Revision Petition shall stand automatically dismissed without further reference to this Court and after depositing the said amount, the Court below is directed to report the same before this Court. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar(CS-)

To

The Principal District Munsif, Manapparai.

+1. C.C. to Mr.T.Balakumaran Advocate SR.No.62935

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