



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.08.2019

CORAM :

WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P(NPD) (MD)No.991 of 2019

and

C.M.P(MD)No.5546 of 2019

1)Eswari
2)Anusuya
3)Dinesh Kumar

... Petitioners/Petitioners/Defendants

vs.

Tamil Nadu Mercantile Bank Ltd.,
Odaipatti Branch,
Uthamapalayam Taluk,
Theni District,
Rep. by its Branch Manager.

... Respondent/Respondent/Plaintiff

Petition filed under Article 227 of the Constitution of India, to set aside the order dated 26.02.2019 passed in I.A(Sr)No.159 of 2019 in I.A.No.645 of 2017 in O.S.No.77 of 2013 on the file of the Subordinate Judge, Uthamapalayam.

For Petitioner	: Mr.K.Mahendran
For Respondent	: Mr.A.R.M.Ramesh

ORDER

This revision petition is filed against the order dated 26.02.2019 passed in I.A(Sr)No.159 of 2019 in I.A.No.645 of 2017 in O.S.No.77 of 2013 on the file of the Subordinate Judge, Uthamapalayam.

2.The case of the petitioners is that the respondent bank as plaintiff filed the above suit for recovery of the loan amount from the petitioners/defendants and due to non appearance of the petitioners, the suit was decreed exparte and to set aside the exparte decree, the petitioners filed I.A.No.645/2017 which was allowed on payment of cost of Rs.500/- on or before 18.12.2018 and since the cost was not paid before the said date, I.A.No.645/2017 was dismissed. The petitioners filed the present petition to permit them to pay the cost as ordered in I.A.No.645/2017. The Court below by order dated 26.02.2019 returned the petition stating that the revision alone will lie against the order, against which, this revision petition is filed.



3. Heard both sides.

4. Considering the facts and circumstances of the case and also the fact that the matter should be decided on merits instead of throwing it on technicalities, this Court is of the view ends of justice would be met, if the petitioners are given opportunity to pay the cost and contest the case on merits. Accordingly, the impugned order dated 26.02.2019 is set aside and the petitioners shall pay the cost forthwith and re-present I.A(Sr)No.159 of 2019 along with the cost memo. On doing so, the learned Judge is directed to accept the cost memo and shall dispose of the suit within a period of six months from the date of receipt of a copy of this order.

With the above direction, this Civil Revision Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed. Registry is directed to return the original documents filed along with this revision to the counsel for the petitioners after getting attesting copies of the same.

Sd/-

Assistant Registrar(CS-III)

/TRUE COPY/

Sub Assistant Registrar

To

The Subordinate Judge,
Uthamapalayam.

COPY TO:
THE SECTION OFFICER,
V.R. SECTION,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI. (2 COPIES)

+1 CC to M/s.K.MAHENDRAN, Advocate (SR-83650[F] dated 27/08/2019)

+1 CC to M/s.A.R. M. RAMESH, Advocate (SR-83879[F] dated 28/08/2019)

C.R.P (NPD) (MD) No.991 of 2019
27.08.2019

bala

JM/18.09.2019/2P/6C