



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 20.08.2020

CORAM:

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

C.R.P. (PD) (MD) No.2413 of 2012

Harun Ali

... Petitioner/Petitioner/Plaintiff

vs.

1.Jiyavudeen

2.Balak Jiyavudeen

3.Babu @ Mohammed Iliyas

... Respondents/Respondents/Defendants

PRAYER: This Civil Revision Petition is filed under Section 227 of the Constitution of India, against the fair and decreetal order dated 17.09.2012 by the learned District Munsif, Pattukkottai in I.A.No. 377 of 2011 in unfiled O.S.No of 2011.

For Petitioner : Mr.S.Deenadhayalan

For R1 & R2 : Mr.V.Meenakshi Sundaram

ORDER

The plaintiff has laid the suit for recovery of Rs.41,699.20/- along with interest at 12% from 31.12.2002 till the date on which the suit was laid. In all, total amount sought to be recovered was Rs.56,710.80/-. The total court fee was Rs.4260.50/- and as the requisite court fee was not readily available, the court fee for the value of Rs.1200/- was paid along with the plaint. The plaint was returned on 02.01.2006 by the court granting one months time to the plaintiff to comply the defect. However, the plaint was re-presented on 28.12.2005 after curing the defect in paying the deficit court fee.

2. I.A.No.337 of 2011 was filed for condoning the delay of 1882 days. This was opposed by the tenants with the counter and submitted that there is a delay of 6 years and the delay is not proved.

3. After considering the rival submissins, the learned trial Judge Vide the impugned order dated 17.09. 2012 dismissed the petition. In his order, the learned Judge has recorded that after the initial return of the plaint granting 1 months time on 02.01.2006, the plaint was re-presented on expiry of the period of limitation and hence, he refused to accept the cause stated for the delay on view of few judgments which he relied on, on the point of refusal



to condonation of delay without production of any supporting medical documents.

5. The learned counsel for the revision petitioner submitted that it is not the case that any loan amount which was sought to be recovered but it is a claim for return of the value of the goods supplied in the course of the plaintiff's business. This Court takes a reasonable and flexible view since this Court is not powerless to condone the delay.

6. Mr. Meenakshi Sundaram, learned counsel for the respondents would argue that the court cannot ignore the relative hardship, which the defendant faced.

7. After weighing the rival submissions, this Court decides to allow the petition on the plaintiff paying cost of Rs.5000/- (Rupees five thousand only) to the respondent within 15 days from today. In the eventuality of the plaint being taken on file and the plaintiff ultimately succeeds in the suit for the whole or any part of the principal amount claim, the plaintiff would not be entitled to any interest whatsoever on the said amount from 02.01.2006 till the date on which the plaint is numbered and taken on file. If the cost is not paid as indicated above, this Civil Revision petition will be dismissed automatically.

8. In the result, this Civil Revision Petition is allowed in the manner indicated above. No costs.

9. Post this matter on 14.09. 2020 for reporting compliance.

Sd/-

Assistant Registrar(AS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

CM

To

The District Munsif, Pattukkottai

copy to

The Section Officer, Judicial Section,
Madurai Bench of Madras High Court, Madurai.

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