

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.07.2021

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

C.R.P.NPD.No.80 of 2018

Visalatchi International,
Rep.by its Managing Partner,
Mr.J.L.N.Bharthe,
No.151, Palanipuram,
Bhavani, Erode District – 638 301.

... Petitioner

Vs.

1. The State Bank of India,
Rep.by its Chief Manager,
SSI Branch, 17/32, First Floor,
Bajanai Koil Street, Bhavani,
Erode District – 638 301.

2. DHL Carrier Services,
Rep.by its Area Manager,
(Principal Officer), AFL Private Limited,
84/85 Lotus Towers,
Anna Salai, Guindy,
Chennai – 600 032.

3. The Export Credit Guarantee Corporation of India,
Rep.by its General Manager,
7th Floor, Spencer Towers,
No.777-A, Anna Salai,
Chennai – 2.

... Respondents

PRAYER: The Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, to set aside the fair and final order dated 07.11.2017 made in I.A.No.45 of 2015 in O.S.No.270 of 2009 on the file of the Additional District Judge, Fast Tract Court No.IV, Bhavani, Erode District by allowing this Civil Revision Petition.

For Petitioner : Mr.Sriram for
Mr.L.Mouli

For Respondent : Notice Served (No Appearance)
(for R-1)
: Not Ready in Notice
(No Appearance) for R-2
: M/s.Thamizhlaarasi for
M/s.Giridhar & Sai

ORDER

This Civil Revision Petition is directed as against the fair and decretal order passed in I.A.No.45 of 2015 in O.S.No.270 of 2009 dated 07.11.2017 on the file of the learned Additional District Judge, Fast Tract Court No.IV, Bhavani, Erode District, thereby dismissing the petition to restore the suit.

2. The petitioner is the plaintiff and the respondents are the defendants. The petitioner filed the suit for recovery of money. When the

suit was posted for trial, at the request of the petitioner, the suit was adjourned on various occasions. Originally, the suit was filed by the plaintiff represented by its Managing Partner J.L.N.Bharathe. Due to his illness, the suit was repeatedly adjourned for his evidence. In fact, on 16.08.2011, the counsel who had appeared the plaintiff produced medical certificate and sought for adjournment. Thereafter, he was bed ridden, even from the month of August 2011 and as such, he was not able to appear before the Trial Court. Since the plaintiff did not appear for evidence, the suit was dismissed for default. Thereafter on 07.07.2012, the Managing Partner who represented the plaintiff died. Thereafter, the counsel who appeared for the plaintiff also became a Judicial Officer. Though it is not stated in the affidavit of the plaintiff, during his deposition, he deposed about the same. The present suit is for recovery of money. Therefore, the petitioner may be given one more opportunity to prosecute the suit as against the respondents herein.

3. Considering the above facts and circumstances, this Civil Revision Petition is allowed and the order passed in I.A.No.45 of 2015 in O.S.No.270 of 2009 dated 07.11.2017 is hereby set aside. At the same time for the

inconvenience caused to the respondents, it must be compensated by the costs. Accordingly, the petitioner is directed to pay a sum of Rs.10,000/- as costs to the respondents directly within a period of two weeks from the date of receipt of a copy of this order, failing which this Civil Revision Petition shall stand automatically cancelled. Thereafter, the trial Court is directed to dispose of the suit within a period of three months. The petitioner is directed to co-operate for trial, without getting any adjournment. No costs.

02.07.2021

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

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To

1. The Additional District Judge, Fast Tract Court No.IV, Bhavani, Erode District.
2. The Chief Manager,
The State Bank of India,
SSI Branch, 17/32, First Floor,
Bajanai Koil Street, Bhavani,
Erode District – 638 301.
3. The General Manager,
The Export Credit Guarantee Corporation of India,
7th Floor, Spencer Towers,
No.777-A, Anna Salai,

Chennai – 2.

4. The Section Officer,
V.R.Section, High Court of Madras.

G.K.ILANTHIRAIYAN,J.

Kv



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