



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Monday, the Twenty Ninth day of March Two Thousand and Twenty One
PRESENT

The Hon'ble Mr. Justice R. SUBRAMANIAN
CMP(MD). No.4977 of 2019

in
SA(MD).No.273 of 2018

Kanagaraaj ...Petitioner/Appellant
Vs
Nagamani ...Respondent/Respondent

Prayer in CMP(MD). No.4977 of 2019 :-

Civil Miscellaneous Petition is filed under section 148 of Civil Procedure Code, praying this Hon'ble Court to extend the time to pay the balance amount as ordered in SA(MD) No.273 of 2018, dated 10.08.2018.

Prayer in SA(MD).No.273 of 2018 :

Second Appeal is filed under section 100 of Civil procedure Code, to set aside the judgment and decree dated 24.06.2014 made in A.S.No.57 of 2013 on the file of the Principal District judge, Tirunelveli, confirming the judgment and decree dated 17.04.2012 made in O.S.No.375 of 2010 on the file of the II Additional Subordinate Court, Tirunelveli.

ORDER:-

Civil Miscellaneous Petition coming on for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.R.J.Karthick, Advocate for the Petitioner and of Mr.H.Arumugam, Advocate for the respondent, this Court made the following order:

This petition has been filed seeking extension of time for payment of balance amount, as per the order of this Court, dated 10.08.2018 made in S.A(MD) No.273 of 2018.

2.It is seen from the records that suit in O.S.No.375 of 2010 was filed by the plaintiff, seeking recovery of a sum of Rs.2,00,000/- with subsequent interest. The suit came to be decreed on 17.04.2012, directing the defendant to pay a sum of Rs.2,00,000/- with subsequent interest at 6% from the date of plaint i.e 21.10.2010, till the date of realisation. Appeal filed against the decree was dismissed on 24.06.2014. In the second appeal, the appellant filed an affidavit, stating that he is ready and willing to pay the decreetal amount with interest. The relevant portion of the affidavit reads as follows:-

"I am prepared to pay the decreetal with interest. I hereby pray time of six months to settle the entire decreetal amount with interest."



3.Recording the said affidavit, this Court disposed of the second appeal granting the petitioner time to pay the decretal amount in three instalments. The relevant portion of the order reads as follows:-

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"5.The appellant is directed to pay a sum of Rs.1,00,000/- (Rupees One Lakh only) on or before 17.09.2018 and another sum of Rs.1,00,000/- (Rupees One Lakh only) on or before 12.11.2018 and the balance amount on or before 17.12.2018."

4.It is not in dispute that the petitioner/defendant has paid a sum of Rs.2,00,000/- in two installments of Rs.1,00,000/- each on 17.09.2018 and 12.11.2018. The petitioner/defendant has also paid a sum of Rs.60,033/- towards interest today. The balance amount payable towards interest is Rs.36,000/-.The learned counsel for the petitioner/defendant seeks time to pay the said sum.

5. Considering the fact that the petitioner/defendant has paid major portion of the decretal amount and also established his bonafides, two months time from today is granted for payment of the balance amount i.e on or before 29.05.2021. It is made clear that the respondent/plaintiff shall not claim any further interest since the principal amount has already been paid.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

TO

1.The Principal District Judge,
Tirunelveli

2.The II Addiitonal Subordinate Judge,
Tirunelveli

+1 cc to Mr.R.J.KARTHICK ,Advocate, SR No.14421

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in

SA (MD) .No.273 of 2018
29.03.2021

NS (CO)

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