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CRP(PD).No.947 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.03.2022

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

C.R.P. (PD) No.947 of 2022

V.Govindasamy

...Petitioner

Vs.

T.Kumaresan

...Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India praying allow the Civil Revision Petition as prayed for by setting aside the petition order dated 17.11.2021 passed in I.A.No.1/2019 in O.S.No.19 of 2019 on the file of the Principal District Judge, Chengelpet.

For Petitioner : Mr.N.Srirengan

ORDER

Aggrieved by the order of the Principal District Court, Chengelpet in allowing I.A.No.1 of 2019 in O.S.No.19 of 2019 filed by the defendant to set aside the exparte order dated 13.08.2019 plaintiff is before this Court. The facts in brief are as follows;

2. The plaintiff had filed a suit for recovery of money. In the said suit, the defendant / respondent had been set exparte on 13.08.2019, as he had not appeared on the said date and filed his written statement. Immediately on 13.09.2019, the defendant has come forward with



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impugned petition in which he has stated that he was not well on the said date and could not appear and had a prolonged illness for which he was unable to contact his counsel. Therefore, he had sought to have the exparte order set aside.

3. The said application was resisted by the respondent / plaintiff denying the statement contained in the affidavit about the illness, the plaintiff in the counter had stated that during the months of July, 2019 and August, 2019, the defendant was attending to his construction work in his land at Vellore. He has been travelling everyday for about 160 K.M. Therefore, the allegations are absolutely false and the petition deserves to be dismissed.

4. The learned Principal District Judge after perusing the records and hearing the arguments allowed the petition taking into account the fact that the defendant had approached the Court without any undue delay. Therefore, in order to avoid multiplicity of proceedings, the application was allowed. Challenging the same, the plaintiff has filed instant Civil Revision Petition.

5. The learned counsel for the plaintiff has reiterated the statement



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made before the Trial Court and has quoted several judgments to buttress his statement that the petition ought not to have been allowed.

6. Heard Mr.N.Srirengan, learned counsel for the petitioner.

7. The proceedings would clearly indicate that the defendant had been set exparte by order dated 13.08.2019 and within 30 days, an application to set aside the exparte order has been filed. Further the order that has been passed is only an exparte order and not an exparte decree. The defendant has also filed written statement along with the application.

8. In these circumstances and taking into account the various judgments of the Hon'ble Supreme Court, which leans in favour of the defendant advocating a more liberal approach while dealing with petitions for condonation of delay, the order passed by the learned Principal District Judge, Chengalpet in I.A.No.1 of 2019 in O.S.No.19 of 2019 does not suffer any infirmity and accordingly the present Civil Revision Petition stands dismissed. No costs.

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Index: Yes/No
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P.T.ASHA,J.,
mrm

To
The Principal District Judge, Chengelpet.

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