



C.R.P.No.3465 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2022

CORAM

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

C.R.P.No.3465 of 2016
and C.M.P.No.17663 of 2016

Audinarayanan

... Petitioner

Vs.

Axis Bank Ltd.,
Rep. by its Authorized Signatory,
No.36/1 and 37, II Floor,
South Usman Road,
T. Nagar,
Chennai – 600 017.

... Respondent

Prayer :- Civil Revision Petition is filed under Section 115 of C.P.C., to set aside the fair and decreetal order dated 11.02.2016 made in I.A.No.14262 of 2014 in O.S.No.756 of 2012 passed by the learned VI Assistant Judge, City Civil Court, Chennai.

For Petitioner : Mr.A.M.Krishnamoorthy

For Respondent : Mr.R.Sreedhar



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ORDER

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This Civil Revision Petition has been filed as against the fair and decreetal order dated 11.02.2016 passed by the learned VI Assistant Judge, City Civil Court, Chennai, in I.A.No.14262 of 2014 in O.S.No.756 of 2012, thereby dismissing the petition filed by the petitioner to condone the delay in filing the petition to set aside the exparte decree.

2. Heard Mr.A.M.Krishnamoorthy, learned counsel appearing for the petitioner and Mr. R.Sreedhar, learned counsel appearing for the respondent.

3. The respondent filed suit in O.S.No.756 of 2012 for recovery of money as against the petitioner. Before filing the suit, the respondent issued pre-suit notice and the same was also duly received by the petitioner. Subsequently, the respondent filed suit and the Court summon was also affixed in the door of the petitioner's house. However, the petitioner failed to appear before the trial Court and therefore, he was set exparte and exparte decree was passed on 04.03.2013. In pursuant to the exparte decree, the



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respondent filed execution petition in E.P.No.1630 of 2014 and same was also ordered. Aggrieved by the same, the petitioner preferred Civil Revision Petition in C.R.P.No.3283 of 2016 and the same was also dismissed by this Court by an order dated 02.08.2018.

4. In the mean time, the petitioner also filed petition in I.A.No.14262 of 2014 to set aside the exparte decree with the delay of 512 days in filing the said petition. On a perusal of the affidavit filed in the condone delay petition, the petitioner stated that only after receipt of the notice from the execution Court, he came to know about the exparte decree passed as against him. When the petitioner received the pre-suit notice, he had knowledge about the suit to be initiated by the respondent. Thereafter, the suit summon was also affixed in the door of the petitioner's house. Therefore, the reasons stated in the affidavit filed in support of the condone delay petition is not sufficient and the trial Court rightly dismissed the petition to condone the delay in filing the petition to set aside exparte decree. This Court finds no infirmity or illegality in the order passed by the Court below.



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WEB COPY 5. Accordingly, the Civil Revision Petition stands dismissed.

Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

14.12.2022

Internet : Yes

Index : Yes/No

Speaking order/Non-speaking order

rts



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WEB COPY To

1. The VI Assistant Judge,
City Civil Court, Chennai.



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G.K.ILANTHIRAIYAN, J.

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