



C.R.P.No.4196 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2022

CORAM

THE HON'BLE Mr. JUSTICE S.M.SUBRAMANIAM

C.R.P.No.4196 of 2022

Mrs.R.Sathya

... Petitioner

Vs.

Mrs.M.Sudha

... Respondent

Prayer:- Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 16.09.2022 made in I.A.No.3 of 2022 in O.S.No.8761 of 2021, passed by V- Assistant Judge (FAC), City Civil Court, Chennai, and allow this Civil Revision Petition.

For Petitioner : Mr.M.Senthil Kumar

ORDER



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The Civil revision petition has been filed challenging the fair and decretal order dated 16.09.2022 passed in I.A.No.3 of 2022, in OS.No.8761 of 2021. The revision petitioner is the defendant and the respondent has instituted a suit for recovery of money.

2. The relief sought in the plaint is to direct the defendant to pay a sum of Rupees Ten Lakhs only (Rs.10,00,000/-) with accrued interest at Twelve per cent (12%) per annum from the date of the plaint till the date of the decision.

3. The revision petitioner filed I.A. to defend the suit and the Trial Court considered the averments set out in the Interlocutory Application. The findings of the Trial Court reveals that after receiving the summons for judgement, the petitioner had not filed the leave to defend petition within the time frame. The summons for judgement was served on the petitioner/defendant on 23.12.2021. Thereafter, on 01.03.2022 only the petitioner filed this leave to defend petition. The petitioner has not stated any



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sufficient clause to condone the delay in applying for leave to defend the suit and not filed any appropriate application to condone the delay. Even the Interlocutory Application filed to defend the suit was not properly filed. In the absence of a petition to condone the delay, the Interlocutory Application to defend the suit cannot be entertained. The Trial Court further observed that the petitioner has no other defence in the suit. The revision petitioner has not mentioned anywhere in the affidavit that she has not received money from the respondent on the basis of the loan deed.

4. The Trial Court accordingly arrived at a conclusion that the revision petitioner/defendant has not raised any probable defence in the petition and there is no triable issue involved and thus, the revision petitioner/defendant failed to satisfy the Trial Court that she has a reasonable defense for the purpose of defending the suit. When, there is no triable issue, since no probable defense has been taken even in the application filed to defend the suit, an inference is to be drawn that such applications are filed in order to prolong and protract the suit.



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5. The facts and circumstances reveal that the revision petitioner/defendant has not raised any acceptable reason for the purpose of entertaining the present civil revision petition and thus, the fair and decretal order passed by the Trial Court in I.A.No.3 of 2022, in O.S.No. 8761 of 2021 dated 16.09.2022 stands confirmed and accordingly, civil revision petition stands **dismissed**. However there shall be no order as to costs.

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21.12.2022

Index:Yes

Internet:Yes

Speaking Order

To

1. V- Assistant Judge (FAC),
City Civil Court, Chennai.



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S.M.SUBRAMANIAM.J.,

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