



C.R.P.(PD)No.1083 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.08.2023

CORAM:

**THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN**

C.R.P.(PD)No.1083 of 2019  
and C.M.P.Nos.7102 & 7105 of 2019

P.Vigneswaran

.. Petitioner

Vs.

K.B.Dhayasagar

.. Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decretal order dated 07.02.2019 in I.A.No.8801 of 2018 in O.S.No.5864 of 2017 on the file of the learned III Additional Judge, City Civil Court, Chennai.

For Petitioner : Mr.K.Balakrishnan

For Respondent : Mr.K.S.Madhavan

**ORDER**



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This revision arises against an order passed in I.A.No.8801 of 2018 in O.S.No.5864 of 2017 on the file of the learned III Additional Judge, City Civil Court, Chennai, dated 07.02.2019.

2. Heard the learned counsel for the petitioner as well as the learned counsel for the respondent and perused the entire materials on record.

3. The civil revision petitioner is the plaintiff and the respondent is the defendant. The suit in O.S.No.5864 of 2017 is for recovery of money. The said suit had been filed invoking the provisions of Order XXXVII of the Code of Civil Procedure, 1908. On the service of the plaint, an application in I.A.No.8801 of 2018 was filed seeking leave to defend by the defendant. In the said proceedings, it was admitted that a sum of Rs.7,00,000/- alone was deposited on 10.07.2016 and not the entire amount as pleaded by the plaintiff.

4. The learned trial Judge granted unconditional leave to defend,



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having come to a conclusion that the defendant had admitted that he had received a sum of Rs.5,00,000/- from the plaintiff. Having come to a conclusion that Rs.5,00,000/- had been received by the defendant, the learned trial Judge ought to have directed the defendant to deposit the same as a condition for grant of leave.

5. My predecessor on 12.01.2023 had directed the respondent/defendant to deposit a sum of Rs.5,00,000/- so that the leave to defend the suit can be granted. The matter was adjourned from time to time from January 2023 till today viz., 17.08.2023 extending time for the defendant to deposit a sum of Rs.5,00,000/-.

6. Today, the learned counsel for the respondent/defendant would submit that the defendant is not willing to deposit a sum of Rs.5,00,000/-.

7. Therefore, I am left with no other option to follow the order



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dated 12.01.2023 and allow the revision for the following terms:

(i) The Civil Revision Petition stands allowed. No costs.

Consequently, connected Miscellaneous Petitions are closed.

(ii) The unconditional leave granted by the learned trial Judge dated 07.02.2019 in I.A.No.8801 of 2018 is set aside.

(iii) Leave is granted on condition that the respondent/defendant will deposit a sum of Rs.5,00,000/- to the credit of O.S.No.5864 of 2017 on the file of the III Additional City Civil Court, Chennai, within a period of eight weeks from the date of receipt of a copy of this order.

(iv) It is made clear, if the amount of Rs.5,00,000/- is not deposited by the defendant, I.A.No.8801 of 2018 will stand dismissed.

**17.08.2023**

Index:Yes/No

Speaking Order :Yes/No

Neutral Citation:Yes/No

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**V.LAKSHMINARAYANAN,J.**

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Kj

To

III Additional Judge  
City Civil Court, Chennai.

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17.08.2023

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