



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.11.2023

CORAM

THE HON'BLE MRS JUSTICE T.V.THAMILSELVI

C.R.P.No.2153 of 2023

and

C.M.P.No.13110 of 2023

Subash Jajoo

...Petitioner

Vs.

M/s Ten & Co
Partnership Firm,
represented by its Partner,
Dharmender Singh Peshit
Plot No.382, Pace City No.2, Sector 37,
Gurgoan, Haryana State.

...Respondent.

Prayer:Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order and decreetal order as made in I.A.No.4 of 2022 in I.A.No.2 of 2020 in O.S.No.643 of 2017 dated 21.04.2023 on the file of the II Additional Subordinate Judge, Erode.

For Petitioner : R.Karthikeyan

For Respondent : Mr.Abhinav Parthasarathy



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ORDER

This Civil Revision Petition has been filed to set aside the order and decretal order as made in I.A.No.4 of 2022 in I.A.No.2 of 2020 in O.S.No.643 of 2017 dated 21.04.2023 on the file of the II Additional Subordinate Judge, Erode.

2.The Learned Counsel for the Civil Revision Petitioner challenging the impugned order passed in I.A.No.4 of 2022 in I.A.No.2 of 2020 in O.S.No.643 of 2017 dated 21.04.2023, the plaintiff has filed before the Trial Court for recovery of claim against the defendant who remains *ex-parte*. Thereafter he filed an application to set aside the *ex-parte* decree dated 24.09.2019 to set aside the *ex-parte* along with the preliminary decree.

3.On 17.10.2019 the *ex-parte* decree was also passed to set aside the same in *ex-parte* under Order 7 Rule 1 of CPC in I.A.No.2 of 2020 and the same was allowed on a condition to pay a cos of Rs.1,000/- on or before 07.09.2021. As he failed, the decree was confirmed and the application was dismissed. Based on the decree he filed an E.P.No.11 of 2022 pending before the Chief Judicial Magistrate of Punjab and Haryana High Court



Gurgaon. Wherein the Defendant also appeared and deposited the entire suit.

4. In the meanwhile an application was filed by him in I.A.No.4 of 2022 praying to extension of time filed in 14.08.2021 that application was allowed on an additional cost of a sum of Rs.20,000/- challenging that now the petition.

5. Learned Counsel for the Petitioner submits that without giving no proper reason for extension of time, in spite of that the Trial Court has allowed this application which is totally erroneous in accordance with law and based on the *ex-parte* decree the entire suit claim was deposited before the before the Chief Judicial Magistrate of Punjab and Haryana High Court Gurgaon, therefore, an additional amount of cost if implicated, then the entire efforts taken by the plaintiff is futile. Considering the submissions. By way of a reply respondent/defendant submits that he is even ready to contest the case.

6. Admittedly, the plaintiff has taken all the efforts to before the Chief Judicial Magistrate of Punjab and Haryana High Court Gurgaon based on the execution proceedings taken in the above said EP decree. But now the



defendant submits that he is ready to co-operate with the Trial, considering the submissions this Court is inclined to confirm the order passed by the Trial Court.

7.However, the amount deposited in E.P.No.11 of 2022, pending before the before the Chief Judicial Magistrate of Punjab and Haryana High Court Gurgaon this court directs to keep in the court till the disposal of the suit and directs the defendant to co-operate with the proceedings and to dispose of the suit within a period of three (3) months on merits from the date of receipt of copy of this order.

8.This Civil Revision Petition stands disposed with the above said directions. No costs. Connected Civil Miscellaneous Petition is closed.

21.11.2023

Index : Yes/No

Neutral Citation Case : Yes/No

Speaking : Yes/No

nst

To:

The II Additional Subordinate Judge,
Erode



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T.V.THAMILSELVI .J.,

nst

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