



C.R.P.No.2409 of 2019

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.08.2023

CORAM

THE HONOURABLE MR. JUSTICE V. LAKSHMINARAYANAN

C.R.P.No.2409 of 2019

and

C.M.P.No.15771 of 2019

V.Tamilzhvanan ...Petitioner/Petitioner/Defendant

Vs.

Kamala ...Respondent/Respondent/Plaintiff

Prayer: Petition filed under Article 227 of the Constitution of India as against the fair and decreetal order dated 13.11.2017 in I.A.No.317 of 2017 in O.S.No.3 of 2015 on the file of the learned Subordinate Judge, Neyveli, Cuddalore.

For Petitioner : Mr.B.Sundarapandiyan

For Respondent : Mr.R.Gopinath



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ORDER

This Civil Revision Petition arises against the order dated 13.11.2017 in I.A.No.317 of 2017 in O.S.No.3 of 2015 on the file of the learned Subordinate Judge, Neyveli, Cuddalore.

2. The petitioner is the defendant. O.S.No.3 of 2015 has been filed for recovery of a sum of Rs.4,87,733/- together with interest @ 12% per annum on Rs.4 lakhs from the date of Plaint till the date of realization. The respondent as plaintiff presented O.S.No.3 of 2015 for recovery of money. It was on the basis of the borrowal from the plaintiff by the defendant on 07.03.2013. A Promissory Note was also executed for the same. No Written Statement was filed and therefore, the defendant was set *ex parte*. To set aside the *ex parte*, an application was taken out on 14.02.2017. The defendant had been set *ex parte* on 23.03.2015. The reason given by the defendant for not appearing in the Court is that his father was sick and he had to take care of him and his



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father passed away on 14.08.2015.

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3.The Trial Court on consideration of the entire case dismissed the application because the plaintiff succeeded in getting a decree on 23.03.2015 but the defendant's father died only on 14.08.2015. No records have been produced to show that his father was sick. Nonetheless, since the defendant had pleaded that he had to take care of his father, subsequently, his father succumbed to the sickness, and also the defendant had already filed his Written Statement along with I.A.No.317 of 2017, I am inclined to condone the delay on the following conditions;

(1)The defendant shall deposit a sum of Rs.4,00,000/- (Rupees four lakhs only) to the credit of O.S.No.3 of 2015 on the file of the learned



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Subordinate Judge, Neyveli, Cuddalore.

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(2)The said deposit shall be made within a period of three (3) months from the date of receipt of a copy of this order. Such deposit will be without prejudice to the right of the defendant to contest the suit.

(3)On such deposit, the amount shall be kept in an interest bearing account.

(4)It is made clear that in case the deposit is not made within the aforesaid period, this Civil Revision Petition would stand dismissed without further reference to this Court.

No Costs. Consequently, connected Miscellaneous Petition is closed.

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Index	: Yes/No
Speaking Order	: Yes/No
Neutral Citation Case	: Yes/No



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To

The Subordinate Judge,
Neyveli,
Cuddalore.



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V. LAKSHMINARAYANAN, J.

mps

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