



C.R.P.No.3673 of 2019

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 23.08.2023

CORAM

THE HON'BLE MR JUSTICE V. LAKSHMINARAYANAN

C.R.P.No.3673 of 2019

and

C.M.P.No.24204 of 2019

1.M/s.Balaji Colour Laboratories,
Represented by its Managing Partner,
M.V.M.G.Appa Rao, No.57, Arcot Road,
Saligramam, Chennai – 600 093

2.Mr.M.V.M.G.Appa Rao, ...Petitioners/Petitioners/Defendants.

Vs.

M/s.Bharani Pictures Private Limited
Represented by its Director,
Radhika Kylasam, No.57, Arcot Road,
Saligramam,
Chennai – 600 093. ...Respondent/Respondent/Plaintiff.

Prayer:Civil Revision Petition filed under Section 115 of the Code of

Civil Procedure to set aside the Fair and Decretal Order dated 28.03.2019

passed in I.A.Nos. 12085 and 12086 of 2018 in O.S.No.540 of 2016 on the

file of the VII Assistant Judge (FAC) IV Assistant Court, Chennai.

For Petitioners : Mr.Shabir Ahmed



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: for Mr.N.Nithianandam

WEB COPY For Respondent : Mr.K.Geethanjali
: for M/s.R.L.Narayanan.

ORDER

The defendant in O.S.No.540 of 2016 is the petitioner before this Court. The Landlord had filed R.C.O.P.No.1573 of 2013 on the ground of wilful default in payment of rent from December 2012 to July 2013. As the arrears were not paid the RCOP was decreed. The rental arrears by that time came to about Rs.3,64,752/-, therefore, to recover the arrears of rent, the present suit has been filed.

2.The defendants remained *ex-parte*. According to the defendant, he wanted to settle the issue but however since the plaintiff/respondent did not co-operate, he was unable to do so. He had offered to sell a 63 KV Generator in order to pay the plaintiff. He would further state that their occassioned a delay on accout that the parties were negotiating the settlement. Therefore, he came forward with an application to condone the



delay of 559 days in filing the application to set aside the *ex-parte* decree dated 21.12.2016.

3.Learned Counsel appearing for the petitioner would submit that an opportunity may be given to contest the suit. Learned Counsel appearing for the respondent states that there is no dispute in the amount and the petitioners are trying to deliberately drag on the matter.

4.I have considered the arguments of both sides and now I am of the view that an opportunity can be given to the petitioner to contest the suit, especially since the second defendant was not a party to the RCOP. However, I do not want to condone the delay and set aside the *ex-parte* decree without imposing any conditions. The petitioner himself has admitted that the rental arrears are due and has expressed his willingness to sell a generator which is lying in the premises of the plaintiff for the purpose of the same.

5.Considering the overall circumstances, I.A.No.12085 of 2018 will stand allowed on the condition that the petitioner deposits a sum of Rs.1



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Lakh on or before 30.09.2023. The learned IV Assistant City Civil Judge is requested to take up the application filed under Order 9 Rule 13 and allow the same on a condition that the petitioner deposits a sum of Rs.50,000/-.

6. In case the petitioner does not deposit either sum of Rs.1 Lakh for condonation of delay in I.A.No.12085 of 2018 or sum of Rs.50,000/- which has been imposed as a condition to set aside the *ex-parte* decree, the CRP will stand dismissed.

7. In fine, the CRP is allowed. No costs. Connected civil miscellaneous petition is closed.

23.08.2023

nst

Index : Yes /No

Speaking Order : Yes/No

Neutral Citations : Yes/No

To:

The VII Assistant Judge (FAC)

IV Assistant City Civil Court,

Chennai.



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V. LAKSHMINARAYANAN.J,

nst

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