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CRP No. 4267 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :27.11.2023

CORAM :

THE HON'BLE MRS. JUSTICE T.V. THAMILSELVI

Civil Revision Petition No.4267 of 2023

and

C.M.P.No.25972 of 2023

1.C.Thangaraj
2.Shanthi
3.T.Dharunraj

... Petitioners

Versus

M/s.Sri Ram City Union Finance Ltd.,
regd. office at 123,
Angappa Naicken Street,
Chennai-600 001.
Branch office at Gugai and Recovery office at
464, J.R.Complex,
Gugai, Salem-6.

... Respondent

Civil Revision Petition filed Under Section 115 of Civil Procedure Code, praying to set aside the Fair and Decreetal order dated 10.07.2023 made in I.A.No.1 of 2022 in Ar.O.P.No.227 of 2021 on the file of the Principal District Court, Salem.

For Petitioners: Mr.K.Sathish Kumar



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ORDER

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2. The learned counsel for the petitioners submitted that the appellants / revision petitioners have initiated the proceedings under Section 34 of Arbitration and Conciliation Act, 1996 for recovery of money claim. On 18.11.2019 ex-parte decree was passed against the revision petitioners/ appellants, having come to knowledge the revision petitioners have filed an I.A.No.1 of 2022, for taking steps to set aside the ex-parte decree, but there was a delay of 103 days. The same was dismissed by the learned trial Judge stating that to drag on the proceedings they have filed the said application, without proper reason, he ignored the application.

3. On perusal of the records, it reveals that, in the docket order on 23.03.2022, stating that "Today posted as Arguments or disposal. Appellants are not present. No represent from Appellant's side. Respondent counsel present and ready of an argument. AROP is dismissed with cost." On one hearing the appellants counsel was not appeared, the appellate Court



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dismissed the AROP.No.227 of 2021. To restore the same, there is a delay of 103 days they filed an application, but the same was dismissed by the learned trial Judge, stating that proper reason was not given. Aggrieved the said order the revision petitioners / appellants have preferred this revision.

4. Considering the facts and circumstances, on one hearing alone the revision petitioners / appellants were absent, without considering the same the learned Appellate Judge erroneously dismissed the appeal preferred by them. On perusal of the E-court status on 23.02.2022 appeal was posted for arguments, but no representation on the side of the appellant, hence it was dismissed. But before that, their counsel was represented the matter. So if opportunity has not given to prove the case, their valuable right to defend their case will be defeated. However, there is a delay of 103 days reason is justifiable, but the learned trial judge failed to take the case accordingly.

5. This Court is inclined to condone the delay of 103 days, because on all hearings, they were followed the proceedings. The revision petitioners are directed to deposit a sum of Rs.25,000/- in AROP.No.227 of 2021, within a period of three weeks from the date of receipt of a copy of this order and on such deposit I.A.No.1 of 2022 is allowed. The appellate Court is directed to



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dispose of the matter within a period of two months from the date of receipt of a copy of this order.

6. In view of the above, this Civil Miscellaneous petition is disposed of. Consequently, connected Miscellaneous petition is closed. No costs.

27.11.2023

Index : Yes/No
Speaking/Non Speaking order
Neutral Citation: Yes/No
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To

1. The Principal District Judge, Salem.
2. The Section Officer,
VR-Section, High Court of Madras.

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and
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