



CRP. No. 4026 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.10. 2023

CORAM:

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

CRP No. 4026 of 2022
& CMP No. 20887 of 2023

C.L. Muthiah

...Petitioner

Vs.

Rajasekar

....Respondent

PRAYER : This Civil Revision Petition is filed under Section 115 of CPC, to set aside the fair and decreetal order dated 14.11.2022 passed in I.A No.1 of 2022 in O.S No. 2191 of 2020 on the file of I Additional City Civil Court, Chennai and allow the above Civil Revision Petition.

For Petitioner : Mr.G.R.Hari

For Respondents : Mr.T.C.S.Raja Chokalingam



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ORDER

This petition has been filed to set aside the fair and decreetal order dated 14.11.2022 passed in I.A No.1 of 2022 in O.S No. 2191 of 2020 on the file of I Additional City Civil Court, Chennai.

2. The petitioner herein filed I.A No.1 of 2022 in O.S No. 2191 of 2020, on the file of I Additional City Civil Court, Chennai, to grant leave to defend the suit in O.S No. 2191 of 2020 but the said petition was dismissed by the Trial Court stating that the claim was already admitted by the petitioner.

3. The learned counsel for the petitioner submitted that the petitioner has not admitted the suit claim except the petitioner had borrowed a sum of Rs.1,00,000/- in respect of mortgage transaction, the respondent herein had obtained signature on the blank papers and the same has been misused by the petitioner. Hence the petitioner is entitle to defend the suit but the Trial Court dismissed the petition. Hence he prays to allow this petition by setting aside the findings in I.A No.1 of 2022.

4. The learned counsel for the respondent submitted that the suit was pending from the year 2009, all these years the petitioner dragging proceedings though he took defence that he has not admitted the claim, on



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the other hand he issued post dated cheque to the respondent and the same was dishonoured. Thereafter legal notice was issued to the petitioner, after obtaining exparte decree, petitioner filed the petition seeking leave to defend. Hence, the Trial Court rightly passed the order which need no interference.

5. On perusal of records, in the year 2008 the respondent send a notice to the petitioner with regard to dishonoured cheque issued by the petitioner for a sum of Rs.25 lakhs said to have borrowed by him, for which the revision petitioner issued reply notice by denying the said amount but he admitted the signature in the cheque stating that the said cheque was issued only for mortgage transaction for a sum of Rs.1 lakh. Considering the above, if the sufficient opportunity is not given to the petitioner his valuable right to defend the case will be defeated but the court below erroneously dismissed the petition. On considering the representation, on the side of the respondent, the respondent filed the case in the year 2008, this Court is inclined to allow the petition with the condition that the petitioner shall deposit a sum of Rs.8 lakhs in the suit O.S No. 2191 of 2020 within a period of two weeks from the date of receipt of a copy of this order on such deposit the Trial court shall dispose the case on merits after giving opportunity to both the parties within a period of three months from the date of receipt of a



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copy of this Order. As discussed above, I.A No. 1 of 2022 in O.S No. 2191

of 2020 is allowed.

6. Accordingly, this petition is disposed of. No cost. Consequentially, connected miscellaneous petition is closed.

13.10.2023

To

The I Additional City Civil Court, Chennai.



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T.V.THAMILSELVI,J.

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