



C.R.P.No. 4179 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2023

CORAM:

THE HONOURABLE Mrs. JUSTICE T.V.THAMILSELVI

C.R.P.No. 4179 of 2023

and

C.M.P.No.25456 of 2023

Thangavel

.. Petitioner

Vs

Arun Kumar

.. Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside fair and decreetal order dated 16.09.2023 made in I.A.No.2 of 2023 in O.S.No.224 of 2018 on the file of the learned Sub Court, Dharapuram.

For Petitioner : Mr.N.Manoharan

ORDER

This Civil Revision Petition is filed challenging the impugned order passed in I.A.No.2 of 2023 in O.S.No.224 of 2018, the defendant has preferred this revision.



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2. Before the trial Court, the defendant / petitioner herein filed application to set aside the ex parte decree passed against him. That application was allowed by the trial Judge, directing him to deposit 60% of the decree amount along with costs. Aggrieved by the said finding, the defendant has preferred this revision.

3. The learned counsel for the petitioner submits that immediately after the ex parte decree, he filed application to set aside the same within 15 days but without considering the same, the trial Judge erroneously passed order to deposit 60% of the decree amount but already he raised objection of the plaintiff's claim that he has not borrowed any loan from the plaintiff / respondent herein.

4. Considering the submission, the written statement filed by the defendant / petitioner herein is perused. The contention of the defendant / petitioner herein is that the plaintiff / respondent herein has filled with a blank pro notes for the false claim. In such circumstances, if he was ordered to deposit 60% of the decree amount, as such is an onerous one but the trial



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Judge without considering the conduct of the defendant / petitioner herein that within 15 days from the date of the ex parte order, he approached the Court to set aside the same, it shows that he is having valid defence to prove his claim. Therefore, the order passed by the trial Judge in respect of depositing the 60% of the decree amount alone is set aside.

5. In the result, the Civil Revision Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

29.11.2023

Index :Yes/No
Neutral Citation :Yes/No
AT

To
The Sub Court, Dharapuram.



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T.V.THAMILSELVI, J.

AT

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