



C.R.P(MD)No.2433 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **28.07.2023**

CORAM

THE HON'BLE MR.JUSTICE C.KUMARAPPAN

C.R.P(MD)No.2433 of 2018

and

C.M.P(MD)No.10837 of 2018

M/s.Arasan Syntex Limited,
Mill Premises, Eppodumvendran,
Thoothukudi District,
Through its Director,
D.Senthilvel,
S/o.Diraviam

...Petitioner/Petitioner/
Petitioner/1st Defendant

Vs.

1.M/s.Sri Phriya Wind Energies,
Gobichettipalayam,
Erode District,
Through its Managing Director,
K.S.Vasudevan,
S/o.Senniyakkal,
No.220/11C, Narayanan Nagar,
Gobichettipalayam,
Erode District.

...1st Respondent/
1st Respondent/
1st Respondent/Plaintiff

2.The Superintending Engineer,
Tirunelveli Electricity Distribution Circle,
TANGEDCO,
Tirunelveli.

...2nd Respondent/
2nd Respondent/
2nd Respondent/
2nd Defendant



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PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order dated 18.09.2018 in I.A.No. 152 of 2018 in I.A.No.2 of 2018 in O.S.No.68 of 2017 on the file of the III Additional District Court, Tirunelveli.

For Petitioner : Mr.G.Mohankumar

For R1 : Mr.H.Arumugam

For R2 : No Appearance

ORDER

This civil revision petition has been filed against the order passed by the III Additional District Court, Tirunelveli in I.A.No.152 of 2018 in I.A.No.2 of 2018 in O.S.No.68 of 2017, dated 18.09.2018.

2. The first respondent has filed a suit for recovery of sum of Rs.18,75,368/- against the petitioner and second respondent herein. It appears that when the suit was posted for filing written statement, since the petitioner has not filed any written statement, the petitioner was set *ex parte* on 03.11.2017. In pursuance to that, the petitioner has filed an application to set aside the *ex parte* order, dated 03.11.2017 along with the written statement in I.A.No.2 of 2018. The said application was allowed on 07.06.2018 with a condition that the petitioner shall pay a sum of Rs.3,000/- to the respondents on or before 21.06.2018.



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3. It appears that the petitioner herein has not paid the cost within the time stipulated by the Court. Hence, the application to set aside the *ex parte* order was subsequently dismissed. Therefore, the petitioner has filed an application in I.A.No.152 of 2018 on 05.07.2018 to extend further time of 15 days to pay the cost imposed vide order dated 07.06.2018. The reason assigned by the petitioner for extension of time is that instead of 21.06.2018, being the time limit granted by the Court, the petitioner has noted as 29.06.2018. Hence, the petitioner was not able to pay the cost amount as imposed by the Court below within the due date.

4. It appears that subsequently, I.A.No.152 of 2018 was also allowed by the Court below on 18.09.2018, on condition to pay Rs.4,33,206/-, based upon the admission made by the petitioner herein in his written statement to pay a sum of Rs.4,33,206/-. Against such onerous condition, the petitioner is before this Court.

5. The learned counsel for the petitioner submits that when the Trial Court has set aside the *ex parte* order on payment of Rs.3,000/-, and when such order was not appealed by the respondents, directing the petitioner to pay a sum of Rs.4,33,206/- for the extension of time is onerous and prayed to set aside the same.



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6. I have given my anxious consideration to either side submission.

7. Here, it is an admitted fact that the respondents have not preferred any appeal against the order of the Court below while setting aside the *ex parte* decree. Even for extension of time, the petitioner has no objection but prayed for condition to pay the admitted amount of Rs. 4,33,206/-. But such onerous condition imposed by the Court below is not appreciable, as the admission made by the written statement is not unequivocal, but subject to certain other pleadings raised in the written statement.

8. Therefore, this Court is of the view that, though the order of the Trial Court in respect of extending time is confirmed, this Court is inclined to modify the condition in respect of Rs.4,33,206/- and to meet the ends of justice, this Court is of the view that instead of Rs.4,33,206/-, the petitioner may be directed to pay another sum of Rs.3,000/- within a period of four weeks from the date of receipt of the copy of this order. In the event of complying this condition, the time granted in I.A.No.2 of 2018 is extended for another 15 days from the date of complying the above condition. After setting aside the *ex parte* order, the learned trial judge is directed to dispose of the suit as expeditiously as possible.



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9. With the above finding, this civil revision petition stands **allowed**. No Costs. Consequently, connected miscellaneous petition is closed.

28.07.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

- 1.The III Additional District Court,
Tirunelveli.
- 2.The Section Officer
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.KUMARAPPAN,J.

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