



CRP(NPD)(MD)No.2577 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 10.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

CRP(NPD)(MD)No.2577 of 2022

and

CMP(MD)No.12683 of 2022

K.Munnamalai

... Petitioner

versus

S.Ashok

... Respondent

Civil Revision Petition filed under Section 115 of Civil Procedure Code, against the order and decree dated 26.09.2022 passed in I.A.No.88 of 2022 in O.S.No.998 of 2018 on the file of the II Additional Sub Court, Madurai.

For Petitioner : Mr.B.Prahalad Ravi

For Respondent : No appearance

ORDER

This Civil Revision Petition is filed as against the order and decree dated 26.09.2022 passed in I.A.No.88 of 2022 in O.S.No.998 of



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2018 on the file of the II Additional Sub Court, Madurai.

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2. The petitioner is the defendant in O.S.No.998 of 2018. The respondent/plaintiff has filed the said suit for recovery of possession. Since the petitioner/defendant has failed to file his written statement, he was set *ex parte* and an *ex parte* decree was passed on 21.06.2019. Thereafter, the petitioner/defendant filed an interlocutory application in I.A.No.88 of 2022 in O.S.No.998 of 2018 seeking to condone the delay of 950 days in filing a petition to set aside the *ex parte* decree dated 21.06.2019. The trial Court, by order dated 26.09.2022, allowed the said application on condition that the petitioner shall pay a sum of Rs.5000/- to the respondent on or before 11.10.2022, failing which, the application shall stand dismissed. Since the petitioner failed to pay the amount as directed by the trial Court, the application in I.A.No.88 of 2022 was dismissed. Aggrieved over the same, the petitioner is before this Court.



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3. The learned counsel appearing for the petitioner submitted that the counsel, who was defending the petitioner/defendant before the trial Court, met with an accident and therefore, he failed to comply with the order passed by the trial Court in I.A.No.88 of 2022. Now, he claims that he changed his counsel and also prepared to abide by any condition deems fit to be imposed by this Court. He further submits that the petitioner/defendant is having a good case in the above suit. Therefore, he prays for allowing the Civil Revision Petition.

4. Considering the submissions made by the learned counsel for the petitioner, this Court, by order dated 22.12.2022, ordered notice to the respondent and granted an order of interim stay on condition that the petitioner shall pay a sum of Rs.25,000/- (Rupees twenty five thousand) to the respondent on or before 04.01.2023.

5. Today, when the matter is taken up for hearing, the learned counsel appearing for the petitioner submits that pursuant to the order



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of this Court dated 22.12.2022, the petitioner has paid the amount of Rs.25,000/- to the respondent on 04.01.2023, by way of a Demand Draft (D.D.No.139158962, dated 03.01.2023) and the same was received by the respondent. The petitioner has also filed a memo to that effect and also enclosed a letter sent by him to the respondent along with the Demand Draft, wherein, the respondent has also endorsed for receiving the demand draft.

6. Considering the facts and circumstances of the case and in view of memo filed by the petitioner that he paid the amount of Rs.25,000/- to the respondent, by way of a demand draft dated 03.01.2023, which was also received by the respondent, this Court is inclined to set aside the order dated 26.09.2022 made in I.A.No.88 of 2022 in O.S.No.998 of 2018 on the file of the II Additional Sub Court, Madurai.



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7. Accordingly, the Civil Revision Petition is allowed and order 26.09.2022 made in I.A.No.88 of 2022 in O.S.No.998 of 2018 on the file of the II Additional Sub Court, Madurai, is hereby set aside.

8. The trial Court shall permit the petitioner to file his written statement and on filing of the written statement, the trial Court shall proceed with the case and dispose of the suit as expeditiously as possible. No costs. Consequently, connected miscellaneous petition is closed.

10.01.2023

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NCC : Yes / No.

Index : Yes / No.

Internet : Yes / No.

To

1. The II Additional Sub Court,
Madurai.

2. The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.

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B.PUGALENDHI, J.

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