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CRP Nos.585 and 587 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.03.2024

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRP Nos.585 and 587 of 2024

Naresh Kumar

... Petitioner in both CRPs

Vs.

1.M/s.SMART Training Resources India Pvt., Ltd.,
Represented by its Directors,
Ram R V and K.Sivakumar,
No.1/5, Sivaganga Road, Nungambakkam,
Chennai-600 034.

2.Ram RV
Director of Smart Training Resources India Pvt., Ltd.,
No.1/5, Sivaganga Road, Nungambakkam,
Chennai-600 034.

3.K.Sivakumar
Director of Smart Training Resources India Pvt., Ltd.,
No.1/5, Sivaganga Road, Nungambakkam,
Chennai-600 034. ...Respondents in both CRPs



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PRAYER: Civil Revision Petitions filed under Article 227 of the Constitution of India to set aside the order allowing the petitions to condone the delay and to set aside the ex parte decree in IA Nos. 2 and 3 of 2023 in OS No.151 of 2020 dated 05.10.2023 passed by the XVIII Additional City Civil Judge, Chennai.

For Petitioner : Mr.M.Amarnath

For Respondents :Mr.C.Mohammed Aseer

COMMON ORDER

The civil revision petitions are filed to set aside the order allowing the petitions to condone the delay and to set aside the ex parte decree in IA Nos. 2 and 3 of 2023 in OS No.151 of 2020 dated 05.10.2023 passed by the XVIII Additional City Civil Judge, Chennai.

2. The revision petitioner is the plaintiff and the respondents are defendants in OS No.151 of 2020. The plaintiff has filed the suit against the defendants seeking recovery of money. In the suit, the defendants did not



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appear. Therefore, they were set ex parte on 13.12.2021 and the suit was decreed on 13.12.2021. Thereafter, the defendants filed applications in IA Nos.2 and 3 of 2022, to condone the delay of 160 days in filing the application to set aside the ex parte decree dated 13.12.2021 and to set aside the ex parte decree dated 13.12.2021, which were allowed by learned judge on payment of cost of Rs.1,000/- payable to the petitioner/plaintiff on or before 12.10.2023. Aggrieved by this common order, the petitioner has filed the present civil revision petitions

3. Learned counsel for the petitioner submits that the defendants remained ex parte for long period. In pursuance of the ex parte decree, the petitioner filed EP Nos.4815 and 5659 of 2002. The IX Assistant Judge allowed EP No.4815 of 2022 and closed EP No.4815 of 2022. He further submits that a huge amount is due from the defendants as a salary to the plaintiff. Therefore, seeking to set aside the impugned order and allow the revisions.



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4. Learned counsel for the respondents submitted that petitioner/plaintiff was working under the first defendant company and in this regard, he filed the suit for recovery of amount of Rs.17,00,000/- as a salary due, which has to be contested. Without giving any opportunity to the defendants, the decree cannot be executed. Therefore, the defendants filed an application to set aside the ex parte decree along with an application to condone the delay of 160 days in filing the application to set aside the ex parte decree dated 13.12.2021 for the reasons stated in the affidavit in IA No.2 of 2022. The Learned Judge allowed the applications on payment of cost of Rs.1,000/- payable to the petitioner/plaintiff on or before 12.10.2023. Therefore, there is no reason to interfere and seeking to dismiss the Revisions.

5. Heard the learned counsel for the parties and perused the materials available on record.



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6. Admittedly, the plaintiff filed the suit against the defendants on the ground that the plaintiff was appointed as a General Manager in the first defendant company on 23.12.2013. After some period, the plaintiff was not paid salary from 23.12.2013 to 30.06.2014 and the subsequent period. Therefore, the plaintiff claimed the first defendant company a sum of Rs.17,00,000/- as salary dues outstanding to the plaintiff. In this case, the defendant remained ex parte for the reason stated in the affidavit. The defendants filed applications to condone the delay of 160 days in filing the application to set aside the ex parte decree dated 13.12.2021 and to set aside the ex parte decree dated 13.12.2021. In order to give a fair chance to the defendants to place their defense before the court to meet the plaintiff's claim, the learned judge allowed the applications on payment of cost of Rs.1,000/- payable to the petitioner/plaintiff on or before 12.10.2023. I find a fair chance has to be given to the defendants to meet the claim of the petitioner/plaintiff. Therefore, the trial court has rightly allowed the applications. There is no ground to interfere with the impugned order. There is no merit in the Revision. Hence, the civil revision petitions are



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dismissed. The trial court is directed to dispose the suit OS.No.151 of 2020, within period of six months from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently, CMP No.2913 of 2024 is closed.

05.03.2024

Index: Yes/No
Internet: Yes/No
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To
The XVIII Additional City Civil Judge, Chennai.

V.SIVAGNANAM, J.

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