



C.R.P.No.4810 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:03.01.2024

Coram:

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

C.R.P.No.4810 of 2023
and
C.M.P.No.28549 of 2023

Mrs.P.Kavitha

.. Petitioner

/versus/

Mr.T.Parthasarathy

.. Respondent

Civil Revision Petition has been filed under Section 115 of C.P.C., to set aside order dated 12.12.2022 in I.A.No.4 of 2022 in O.S.No.240 of 2017 on the file of the I Additional District Judge, Tiruvallur and allow this C.R.P.

For Petitioner :Mr.A.Ramesh Manikandan

=====

ORDER

This Civil Revision Petition has been filed to set aside the order dated 12.12.2022 in I.A.No.4 of 2022 in O.S.No.240 of 2017 on the file of the I Additional District Judge, Tiruvallur.



2. The learned counsel appearing for the petitioner submitted that the petitioner/plaintiff filed a suit in O.S.No.240 of 2017 against the respondent/defendant on the file of the I Additional District Court, Tiruvallur for recovery of money and thereafter, the petitioner remained absent and set ex parte and ex parte decree was passed on 21.10.2019 by the trial Court by directing the defendant to pay a sum of Rs.18,82,500/- along with interest at the rate of 6% per annum on the principal amount of Rs.15,00,000/- from the date of the plaint till the date of realisation.

3. The learned counsel appearing for the petitioner further submitted that the petitioner/plaintiff filed an application in I.A.No.4 of 2022 under Section 5 of the Limitation Act to condone the delay of 1080 days to set aside the ex parte decree dated 21.10.2019 and the said application was allowed by the trial Court by passing the impugned order with a condition to deposit 50% of the decree amount into the Court by the defendant and on further payment of cost of Rs.10,000/- by the defendant to the plaintiff on or before 09.01.2023 at 11.00 a.m., failing which, the application will stand dismissed. Aggrieved by the said order, the present Civil Revision Petition has been filed for the aforesaid prayer.



WEB COPY

4. The learned counsel appearing for the petitioner also submitted that 50% of the decree amount is a huge amount and the petitioner being a lady and house wife, is unable to pay such huge amount. Further, he submitted that there is no such transaction between the petitioner and the respondent.

5. I have considered the submissions made by the learned counsel appearing for the petitioner and perused the materials available on record.

6. On perusal of the records, the fact reveals that the petitioner is the defendant. The respondent is the plaintiff in O.S.No.240 of 2017 on the file of the I Additional District Judge, Tiruvallur. The said suit was filed by the plaintiff for recovery of money based on the promissory note executed by the defendant on 28.01.2015 in favour of the plaintiff. Though the petitioner/defendant filed written statement, she has not interested in prosecuting the case and she remained absent and was set exparte. Exparte decree was passed on 21.10.2019. Thereafter, an application in I.A.No.4 of 2022 was filed to condone the delay of 1080 days to set aside the exparte decree dated 21.10.2019, which was allowed by the learned Judge on



C.R.P.No.4810 of 2023

condition to deposit 50% of the decree amount besides costs of Rs.10,000/- payable by the defendant to the plaintiff on or before 09.01.2023.

7. On perusal of the impugned order, it is also noticed that the petitioner was given sufficient opportunity to contest the suit, but the petitioner has not taken any step to set aside the exparte decree within the time and there was a huge delay of 1080 days. The trial Court found that the defendant was not diligent in defending the case and though the reason assigned to condone the delay of 1080 days to set aside the exparte decree is not satisfactory, allowed the application with the above said conditions.

8. Under these circumstances, I find no valid reason to interfere with the impugned order passed by the trial Court and there is no merit in the civil revision petition.

9. Hence, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is also closed.

03.01.2024

Index:yes/no



WEB COPY

ari

To:

The I Additional District Judge, Tiruvallur.



C.R.P.No.4810 of 2025



WEB COPY



C.R.P.No.4810 of 2023

V.SIVAGNANAM, J.,
ari

C.R.P.No.4810 of 2023
and
C.M.P.No.28549 of 2023

03.01.2024