



CRP.No.1048 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

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Selvaraj

... Petitioner

Vs.

Valarmathi Finance by its
Proprietor Mr.Meiyar
No.130, Kamban Street
Perambalur Taluk & District.

...Respondent

Prayer: Civil Revision Petition filed under Section 115 of the Code of Civil Procedure, to set aside the order and decretal order dated 06.01.2021 passed in IA.No.1of 2020 in OS.No.27 of 2018 on the file of the Sub-Court, Perambalur.

For Petitioner : Mr.M.Sankar

For Respondent : Mr.G.Ilamurugu



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ORDER

This Civil Revision Petition is filed challenging the order passed by the Court below dismissing the petition filed to condone the delay of 324 days seeking to set aside the exparte decree passed against the petitioners on 25.09.2019.

2. The respondent herein filed a suit for recovery of money. The said suit was decreed exparte owing to failure of the petitioner to file his written statement on 25.09.2019. Thereafter, the petitioner filed an application to set aside the exparte decree on 14.09.2020 along with petition to condone delay of 324 days in filing such application.

3. In the affidavit filed in support of the petition it was stated by the petitioner that subsequent to filing of the suit there was understanding between the petitioner and the respondent whereunder the respondent agreed to withdraw the suit and believing his words, he failed to file the written statement and immediately after acquiring knowledge about the exparte



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decree passed against him, he had filed the present application.

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4. When the matter came up before this Court on 02.01.2024 in order to show bonafide of the petitioner he was directed to deposit a sum of Rs.50,000/- to the credit of the suit on or before 18.01.2024. Today, learned counsel for the petitioner filed an affidavit of the petitioner dated 12.01.2024 stating that the said order has been complied with. He also produced a receipt for payment of 50,000/- to the credit of the suit on 10.01.2024.

5. In view of the same, this Court is inclined to take liberal approach while considering the explanation offered by the petitioner explaining the delay. When there is a conflict between the technicalities and substantial rights of the parties, later shall prevail over the parties. In the case on hand, the petitioner in order to show his bonafide deposited a portion of the decree amount to the credit of the suit.

6. In such circumstances, this Court feels that the petitioner shall be given an opportunity to contest the case on merits. Accordingly, the Civil



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Revision Petition is allowed and the Court below is directed to take up the petition filed by the petitioner seeking to set aside the exparte decree and dispose of the same in accordance with law. In case the exparte decree is set aside, the Court below shall endeavour to dispose of the suit within a period of six months thereafter. No costs.

02.02.2024

Index : Yes / No
Internet : Yes / No
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To

The Sub-Court, Perambalur.



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