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C.R.P.(PD).No.3242 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.04.2024

Coram

THE HON'BLE MR JUSTICE V. LAKSHMINARAYANAN

C.R.P.(PD).No.3242 of 2022 &
C.M.P.No.17213 of 2022

Sri Vidayanarayana Educational Trust,
rep. by its Authorised Signatory,
Aditya Vidyasram Residential School,
Poraiyur, Villianur,
Puducherry - 605 110 ... Petitioner

-Versus-

A.V.Thomas & Co Ltd.,
rep. by its Authorised signatory Mr.W.D.Nelson,
Vice President Administration,
Sri Paduka Rajyam,
No.9, Ramakrishna Nagar,
Muthialpet, Puducherry – 605 003 ... Respondent

Civil Revision Petition filed under Section 115 of the Code of Civil Procedure challenging the order dated 25.08.2022 passed in I.A.No.202 of 2021 in O.S.No.111 of 2017 by the Principal District Judge, Puducherry.

For Petitioner : *Ms.Shiva Nandini for*
Mr.K.P.Jotheeswaran
For Respondent : *Mr.C.Sakthimanikandan*



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ORDER

This civil revision petition arises against the order passed in I.A.No.202 of 2021 in O.S.No.111 of 2017.

2. For the purpose of disposal of this revision, the bare facts alone are being set forth.

3. The respondent herein filed a suit for recovery of money. In that suit, the petitioner did not contest the same, which resulted in exparte decree on 08.06.2020. To set aside the same, an application was filed in I.A.No.202 of 2021.

4. The reason that the petitioner gives for not filing the written statement in time is that the country was affected by the Covid-19 Pandemic.

5. A perusal of the date shows that the petitioner was set exparte on 18.01.2018 and at that time, there was no pandemic at all. In fact, the Covid 19 virus itself had not been discovered at that time.



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6. Objecting that the affidavit contains false details, a counter was filed by the plaintiff.

7. The learned judge came to a conclusion that there was no proof that the trustee of the plaintiff was suffering from any disease. However, in order to give an opportunity to the petitioner to contest the case and since the execution petition was pending, the learned judge allowed the application on the following conditions:

- (i) On payment of Rs.3,000/- as cost; and
- (ii) On deposit of 50% of the decretal amount.

8. Challenging the same, the present revision has been filed.

9. Ms.Shivanandhini would vehemently contend that the conditions that have been imposed are excessive and are not proportionate to the grounds that had been set forth for setting aside the exparte decree.

10. Mr.C.Sakthimanikandan would represent that the conditional order is not disproportionate and the learned judge had taken into consideration that the suit had been pending from the year 2017 onwards and only thereafter, he had imposed the conditions.

11. Heard both sides.



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12. This is a suit for recovery of money in which the defendant is adopting the usual tactics of not attending court and thereafter seeking mercy of the court on invented grounds. The trial court has come to a categorical conclusion that no reason had been set forth to set aside the *exparte* decree. However, taking into consideration, the directions given by the Supreme court on 25.03.2020 *in re* Limitation Act, regarding the Covid-19 Pandemic, he decided to be charitable to the petitioner by imposing conditions.

13. I have gone through the conditions. I do not find them to be onerous or unconscionable as contended by Ms.Shivanandhini. On the contrary, the learned judge has considered the aspect in the correct way and perspective and has given the petitioner an opportunity to contest the case.

14. I find no reason to differ from the order passed by the learned trial judge. Accordingly, this civil revision petition is dismissed. The cost in the revision will follow the result of the suit. Time is granted to the petitioner to comply with the conditions till 30.04.2024. In case both the conditions are not complied, the application filed in I.A.No.202 of 2021 in O.S.No.111 of 2017 shall stand dismissed. No costs. Consequently, connected miscellaneous petition is closed.



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Index : yes / no

Neutral Citation : yes / no

Speaking / Non Speaking Order

To

1.The Principal District Judge, Puducherry



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V.LAKSHMINARAYANAN, J.

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