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C.R.P.No.3917 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.10.2024

CORAM :

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

C.R.P.No.3917 of 2024
and C.M.P.No.21443 of 2024

1. M.Ashok Mootha

2. A.Saroj Mootha

... Petitioners

Vs

M/s.City Union Bank Limited,
Represented by its Chief Manager,
G.Viswanathan
No.48, Mahalakshmi Street,
T.Nagar, Chennai 600 017.

... Respondent

PRAYER : Civil Revision Petition filed under Section 115 of the Civil Procedure Code, pleaded to set aside the fair and decreetal order dated 13.08.2024 in I.A.No.3 of 2024 in I.A.No.2 of 2023 in O.S.No.4648 of 2017 on the file of the XVII Assistant City Civil Court, Chennai.

For Petitioners : Mr.A.Arokia Satheesh

For Respondent : Mr.G.Logesh Ganesh
for Mr.R.Sivaraman



C.R.P.No.3917 of 2024

WEB COPY

ORDER

This Civil Revision Petition has been filed against the order passed by the XVII Assistant City Civil Court, Chennai, in I.A.No.3 of 2024 in I.A.No.2 of 2023 in O.S.No.4648 of 2017 on 13.08.2024.

2. The brief facts of the case is that the petitioners are the defendants in the suit filed by the respondent/plaintiff in O.S.No.4648 of 2017 on the file of the XVII Assistant City Civil Court, Chennai, for recovery of money for a sum of Rs.8,68,546.40/- with an interest at the rate of 12% and thereafter, an ex parte judgment came to be passed on 01.12.2022. On coming to know about the same, the petitioners had filed a petition in I.A.No.2 of 2023 seeking to set aside the ex parte decree and judgment passed in O.S.No.4648 of 2017 on 01.12.2022. The trial Court, vide order dated 13.03.2024, had allowed the petition with a condition to the petitioners to pay a sum of Rs.2000/- to the respondent on or before 15.04.2024. Since the amount was not paid on time, the petition in I.A.No.2 of 2023 came to be dismissed on 16.04.2024. Thereafter, the petitioners have filed an application in I.A.No.3 of 2024 under Order IX Rule 9 seeking to restore the order



C.R.P.No.3917 of 2024

passed in I.A.No.2 of 2023 on 16.04.2024. The trial Court, finding that the petitioners have not shown bonafides, has dismissed the petition vide order dated 13.08.2024. Aggrieved over the same, the present revision petition has been filed by the petitioners.

3. Mr.A.Arokia Satheesh, learned counsel appearing for the petitioners submitted that the petitioners and their counsel were following the orders, however, due to some confusion and inadvertence and since the order was not uploaded in the e-court services, they could not take note of the date properly. Thereby, the petitioners were not able to pay the amount of Rs.2000/- on or before 15.04.2024 as directed by the trial Court. However, immediately, the petitioners have filed a petition in I.A.No.3 of 2024 seeking to restore the order passed in I.A.No.2 of 2023 on 16.04.2024, however, the learned trial Judge had dismissed the petition. He further submitted that the petitioners undertake to compensate the respondent for the inconvenience caused and they are also ready to cooperate for the speedy disposal of the trial. Thereby, he prayed to set aside the order passed on 13.08.2024 in I.A.No.3 of 2024 in I.A.No.2 of 2023 in O.S.No.4648 of 2017, on terms.



C.R.P.No.3917 of 2024

4. Per contra, Mr.G.Logesh Ganesh, the learned counsel appearing for the respondent/plaintiff submitted that the petitioners/defendants have been delaying at every stage of the proceedings and thereby, he objected for setting aside the order passed by the trial Court.

5. Heard both sides and perused the materials available on record.

6. It is seen that the suit has been filed seeking for recovery of money and in which, the ex parte judgment and decree came to be passed on 01.12.2022. Thereafter, the said ex parte judgment was set aside by the trial Court on condition to the petitioners to pay a sum of Rs.2000/- to the respondent. It is the case of the petitioners that due to some inadvertence, the date has been wrongly noted and due to which, they have failed to comply with the order and the petition came to be dismissed.

7. Though there had been a lapses on the side of the petitioners, this Court is of the opinion that a chance may be given to the petitioners in the interest of justice to defend their case, on imposition of terms and cost.



C.R.P.No.3917 of 2024

8. In view of the above, this Civil Revision Petition stands allowed and the order passed by the XVII Assistant City Civil Court, Chennai, in I.A.No.3 of 2024 in I.A.No.2 of 2023 in O.S.No.4648 of 2017 on 13.08.2024, is hereby set aside. The petitioners shall pay a sum of **Rs.4000/-** (Including a sum of Rs.2000/- ordered by the trial in I.A.No.2 of 2023) to Mr.G.Logesh Ganesh, the learned counsel for the respondent as cost, within a period of **one week** from the date of receipt of copy of this order.

9. On such deposit being made by the petitioners, the ex parte judgment and decree passed in O.S.No.4648 of 2017 on 01.12.2022 is also set aside and the trial Court shall take every endeavor to dispose of the suit in O.S.No.4648 of 2017 as expeditiously as possible, preferably, within a period of **four months** from the date of receipt of a copy of this order. The trial Court shall proceed with the suit from the stage of setting the petitioners/defendants ex parte. Consequently, connected miscellaneous petition is also closed. No costs.

18.10.2024

Note : Registry is directed to return the original papers to the counsel for the petitioners forthwith and issue order copy by 21.10.2024.

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C.R.P.No.3917 of 2024

Index : Yes / No

Neutral Citation : Yes / No

To
The XVII Assistant City Civil Court, Chennai.



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A.D.JAGADISH CHANDIRA, J.

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C.R.P.No.3917 of 2024