



C.R.P.[NPD].No.4718 of 2024

THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 20.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

C.R.P.[NPD].No.4718 of 2024 & CMP.No.26334 of 2024

1. Abdul Shukkar
2. Yasmin Shakkur

. . . Petitioners

Versus

Velmurugan

. . . Respondent

PRAYER : Petition filed under Article 227 of Constitution of India to set aside the Order and decree passed by the learned III Additional Judge, City Civil Court, Chennai dated 23.09.2024 in I.A.No.3 of 2014 in A.S.No.273 of 2024 and allow the above petition.

For petitioner : Ms.Sudharshana Sunder



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ORDER

This revision has been filed challenging the Order of the first appellate Court declining to grant stay of the decree and judgment passed in O.S.No.1408 of 2014.

2. The suit in O.S.No.1408 of 2014 has been filed for recovery of a sum of Rs.7 lakhs along with interest. It is stated in the plaint that the defendants have borrowed the money and executed promissory notes, besides loan agreement. The same was denied by the defendants. After contest, a decree has been passed for a sum of Rs.8,36,500/- with subsequent interest at the rate of 6%. As against which, an appeal has been filed in A.S.No.273 of 2024. In the appeal, an application has been filed to stay the operation of decree and judgment passed in O.S. No.1408 of 2014. The said application has been rejected stating that trial Court records have not been received and without perusing the records, the Court cannot



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consider whether the petitioner is entitled to stay. Challenging the same, the present revision petition has been filed.

3. I have perused entire materials. The impugned Order has been passed mainly on the ground that the records have not been received from the trial Court and therefore, stay has not been granted. This Court is of the view that if the records have not been received from the lower Court, the appellate Court ought to have directed the appellant to produce the certified copy of the documents. Hence, the impugned Order clearly indicate non application of mind and the trial Court has not applied its mind and exercised its discretion properly. In such view of the matter, the impugned Order has to be set aside.

4. Accordingly, this Civil Revision Petition is allowed and the impugned Order dated 23.09.2024 passed in I.A.No.3 of 2024 in A.S.No.273 of 2024 is set aside and the learned III Additional Judge, City Civil Court, Chennai is directed to rehear the application and if the certified



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copy of the documents are produced, the same can be considered and pass fresh Orders on its own merits. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No

Internet: Yes

Speaking/non speaking order

vrc



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N. SATHISH KUMAR, J.

VTC

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