



C.R.P(MD).No.1318 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Dated : 23.02.2024

CORAM:

THE HON'BLE Mr. JUSTICE K.K.RAMAKRISHNAN

C.R.P.(MD).No.1318 of 2015

C.J.George Ditto

: Appellant

Vs.

The Catholic Syrian Bank Limited,
The Manager and Principal Officer,
M.Amuthan
Door No.94, West Tower Street,
Madurai.

: Respondent

Prayer : Civil Revision Petition filed under Section 115 of the C.P.C., praying to allow the Civil Revision Petition and set aside the fair and decreetal order dated 18.03.2015 made in I.A.No.26 of 2014 in O.S.No.120 of 2004 by the learned Fifth Additional District Judge, Madurai.

For Petitioner : Mr.J.Barathan

For Respondent : Mr.R.Pandivel

ORDER

The petitioner filed this civil revision petition challenging the fair and decreetal order dated 18.03.2015 made in I.A.No.26 of 2014 in O.S.No.120 of 2004 by the learned Fifth Additional District Judge, Madurai.



C.R.P(MD).No.1318 of 2015

WEB COPY 2.The respondent bank filed a suit in O.S.No.120 of 2004 on the file of the Additional District Judge, Fast Track Court-II, Madurai, seeking for recovery of a sum of Rs.9,37,271/- with interest at the rate of 19.13% from the date of plaint till the date of realization under mortgage. The said suit was decreed exparte on 29.12.2009. The petitioner filed an application in I.A.No.26 of 2014 to set aside the ex-parte decree with delay of 1442 days and the same was dismissed by the impugned order, dated 18.03.2015. Challenging the same, he filed this civil revision petition before this Court.

3.The learned counsel appearing for the petitioner made detailed submission that sufficient reason was given before the Court below to condone the delay. Hence, he seeks to allow this petition.

4.Per contra, the learned counsel appearing for the respondent/bank submitted that subsequent to the decree, the recovery proceedings were initiated under RDB Act before the recovery officer, DRT Madurai, in O.A.No.170 of 2012 and in the said O.A.No.170 of 2012, the petitioner has remained exparte. Thereafter, the learned Recovery officer of the Debt



C.R.P(MD).No.1318 of 2015

Recovery Tribunal has proceeded his recovery proceedings in R.P.No.37 of 2013 and the same is pending.

5.During the pendency of the case, both the parties made the compromise talk and agreed to settle the issues. As per the agreement arrived between them, the respondent bank considering the condition of the plaintiff and agreed to receive an amount of Rs.8,70,297/- as one time settlement. This arrangement was made considering the pathetic condition of the petitioner and also the other circumstances of the case. In the said terms, the petitioners agreed to settle the amount of Rs.8,00,000/- and the bank can get reimbursement of the entire Court fee of Rs.70,297/- forfeited by the Court below. In view of the said circumstances and taking into account of the plaintiff's situation, this Court is inclined to dispose of the case with the following orders:-

5.1.The revision petitioner is hereby directed to pay Rs.8,00,000/- to the respondent bank.

5.2.The petitioner is ready to pay a sum of Rs.3,00,000/- today itself to show his bonafides. Hence, this Court directs the petitioner to make the



C.R.P(MD).No.1318 of 2015

payment of Rs.3,00,000/- to the bank authority within a period of one week from the date of receipt of a copy of this order.

WEB COPY

5.3.The petitioner agrees to pay the remaining amount of Rs. 5,00,000/- in two instalments.

5.4.The remaining amount of Rs.5,00,000/- be paid on or before 07.06.2024. If the petitioner committed any default in making the payment on or before 07.06.2024, the bank is permitted to proceed the proceedings before the R.P.No.37 of 2013 from this stage, which is pending as on date.

5.5.On such payment, the bank authorities are directed to return the documents without any further clarification within a period of four weeks thereafter.

5.6.It is made clear that the amount of Rs.8,00,000/- is total final settlement and no further claim can be made by the bank. The learned trial Judge is directed to refund the entire Court fee without raising any query of eligibility and other issues



C.R.P(MD).No.1318 of 2015

WEB COPY 6. Accordingly, this civil revision petition is disposed of with the above directions. No costs.

This Court also appreciates the steps taken by the learned counsel on record for amicable settlement.

23.02.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
vsg

To

1. The learned Fifth Additional District Judge,
Madurai.
2. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.R.P(MD).No.1318 of 2015

K.K.RAMAKRISHNAN, J.,

vsg

C.R.P.(MD).No.1318 of 2015

Dated: 23.02.2024