



C.R.P(NPD)(MD)No.1579 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

C.R.P(NPD)(MD)No.1579 of 2023

and

C.M.P.(MD)No.7727 of 2023

1.Vasantha
2.Manogaran
3.Kamal
4.Sathya

... Petitioners/Petitioners/Defendants

vs.

Neelamegam

... Respondent/Respondent/Plaintiff

Prayer:- Civil Revision Petitions filed under Section 115 of C.P.C., against the order dated 10.02.2020 passed in I.A.No.148 of 2019 in I.A.No.49 of 2019 in I.A.No.289 of 2018 in O.S.No.53 of 2017 on the file of the learned Sub Judge, Kulithalai.

For Petitioner : Mr.M.Arjun Varman

For Respondent : Mr.V.Karuna



C.R.P(NPD)(MD)No.1579 of 2023

ORDER

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The Civil Revision Petition is filed against the order passed in I.A.No.148 of 2019 in I.A.No.49 of 2019 in I.A.No.289 of 2018 in O.S.No.53 of 2017.

2.O.S.No.53 of 2017 is filed for recovery of money based on a pro-note. An *ex parte* decree was passed on 29.01.2018. Thereafter, an application was filed to set aside the *ex parte* decree. The said application was allowed by the trial Court on condition to pay a cost of Rs.500/- on 09.01.2019. The said cost was not paid within the time and therefore, the said petition was dismissed. Thereafter, another I.A. was filed to restore the said petition, in which also batta was not paid and the said petition was also dismissed. Thereafter, applications are filed to restore both the applications and now the trial Court has dismissed the same.

3.When the matter came up for hearing, when this Court expressed its opinion that the suit is conducted in an absolutely



C.R.P(NPD)(MD)No.1579 of 2023

careless manner by the defendant and even the present civil revision petition is filed with a delay in filing and thereafter, with a delay in representation, the learned counsel for the petitioner would submit that they have already deposited a part amount. If the court directs, they will deposit the entire decretal amount along with interest to the credit of the suit and then an opportunity shall be given to them to contest the suit on merits. The learned counsel for the decree holder has no objection for such a course.

4.In view thereof, the Civil Revision Petition is allowed on the following terms:

(i) On or before **31.08.2024**, the petitioners shall deposit the entire decree amount along with the interest as ordered in the *ex parte* decree. Needless to state that they can deduct the amount already deposited and the balance shall be deposited on or before the said date;

(ii) Upon such deposit, the order dated 10.02.2020 passed in I.A.No.148 of 2019 and the earlier orders in the



C.R.P(NPD)(MD)No.1579 of 2023

application for setting aside the *ex parte* decree etc., shall also stand set aside and the *ex parte* decree dated 29.01.2018 shall stand set aside and the petitioners herein shall file a written statement on or before **15.09.2024** ;

(iii) Upon the written statement being filed, the trial Court shall take up the suit for framing of issues and trial as expeditiously as possible and shall thereafter, dispose of the same within a period of six months therefrom;

(iv) The amount deposited shall be redeposited by the trial Court in any interest-bearing deposit, and depending on the outcome of the trial, the party who succeeds will be entitled to withdraw the entire sum along with the interest.

No costs. Consequently, connected miscellaneous petition is closed.

11.07.2024

NCC : Yes / No
sjj



C.R.P(NPD)(MD)No.1579 of 2023

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The Sub Judge, Kulithalai.



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C.R.P(NPD)(MD)No.1579 of 2023

D.BHARATHA CHAKRAVARTHY, J.

sjj

C.R.P.(NPD)(MD)No.1579 of 2023

11.07.2024