



C.R.P.(NPD)(MD).No.1903 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.02.2025

CORAM

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P.(NPD)(MD).No.1903 of 2024
and CMP(MD).No.10780 of 2024

R.Subramani

...Petitioner/Petitioner/Defendant

-VS-

P.Bharathi

...Respondent/Respondent/Plaintiff

PRAYER: The Civil Revision Petition has been filed under Section 115 of C.P.C, to allow this civil revision petition by setting aside the order and decree dated 24.06.2024 made in I.A.No.31 of 2023 in O.S.No.21 of 2014 on the file of the Additional District Court, Palani.

For Petitioner : Mr.I.Abrar Mohamed Abdullah

For Respondent : No appearance

ORDER

The defendant in O.S.No.21 of 2014 on the file of the Additional District Court, Palani is the revision petitioner.

2.The respondent herein as plaintiff has filed the above said suit for recovery of a sum of Rs.49,72,000/- based upon a pro-note dated



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22.06.2011. The defendant was set exparte on 05.07.2022 and an exparte decree came to be passed on 13.09.2022. The defendant had filed I.A.No. 31 of 2023 on 12.10.2022 to set aside the exparte decree. This application was allowed by the trial Court on 24.06.2024 with a condition to deposit 1/4th of the property amount namely Rs.10,00,000/-. The condition imposed while allowing Order 9 Rule 13 of C.P.C is under challenge in the present civil revision petition.

3.According to the learned counsel for the revision petitioner, the application to set aside the exparte decree was filed in time and therefore, such an onerous condition ought not to have been imposed upon him. Pending Civil Revision Petition, the defendant was directed to deposit a sum of Rs.3,00,000/- to the credit of E.P.No.19 of 2022 which he had complied with and filed a cost memo.

4.Considering the facts that the petitioner has been set exparte for the first time and the application has been filed within a period of 30 days, this Court is of the opinion that such an onerous condition ought not to have been imposed by the Court. The petitioner, having already deposited a sum of Rs.3,00,000/-, this Court is inclined to modify the order passed by the trial Court in I.A.No.31 of 2023 from Rs.10,00,000/-



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to Rs.3,00,000/-.

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5.In view of the above said deliberations, the order impugned in the revision petition is modified to the said effect and this Civil Revision Petition would stand allowed. The trial Court is directed to dispose of the suit on merits and in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

12.02.2025

Index : Yes/No

Internet : Yes/No

NCC : Yes/No

msa

To

1.The Additional District Judge, Palani.

2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

R.VIJAYAKUMAR, J

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