



C.R.P.(NPD)(MD)No.2019 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.02.2025

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P.(NPD)(MD)No.2019 of 2024

and

C.M.P(MD)No.11503 of 2024

Muthu Kumar

...Petitioner/Petitioner/Defendant

Vs.

V.Kasi

...Respondent/Respondent/Plaintiff

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, against the Fair and Decretal order passed by the Principal Sub Court, Tenkasi, Tenkasi District in I.A.No.01 of 2023 in O.S.No.55 of 2020 on 14.06.2024.

For Petitioner : Mr.M.Jothi Basu

For Respondent : Mr.G.Sridharan

* * * * *

ORDER

The defendant in O.S.No.55 of 2020, on the file of the Principal Sub Court, Tenkasi, is the revision petitioner herein.



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2.The respondent herein has filed the above said suit for the recovery of a sum Rs.2,30,000/- along with interest, based upon a pro-note, dated 31.10.2018. Since the defendant had not filed the written statement, he was set ex-parte on 09.03.2020 and ex-parte decree came to be passed on 05.03.2021.

3.The defendant had filed I.A.No.1 of 2023, seeking condonation of delay of 242 days in filing an application to set aside the ex-parte decree. Along with the application, written statement has also been filed. A perusal of the affidavit in I.A.No.1 of 2023 reveals that he came to know about the pendency of the suit only when he received the notice in the execution proceedings. This contention of the defendant was disbelieved by the Court and the condone delay application was dismissed. Challenging the same, the present revision petition has been filed.

4.At the time of admission, this Court had directed the defendant to deposit 50% of the principal amount of Rs.2,00,000/- in two installments within a period of eight weeks. On such condition, an order of interim stay was granted. The defendant has deposited the said amount in compliance of the order of this Court.



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5. According to the learned Counsel appearing for the revision petitioner, he has taken the defence that the suit pro-note is a forged document and therefore, an opportunity may be granted to contest the proceedings. However, the learned Counsel appearing for the respondent herein had contended that the suit summon was received by the defendant and he had voluntarily chosen to remain ex-parte. Even after the receipt of the notice in the execution proceedings, the present application has not been filed within a period of 30 days. Hence, there is no bonafide in the application to condone the delay of 242 days and therefore, the Court has dismissed the revision petition.

6. I have considered the submissions made on either side and perused the materials available on record.

7. The suit has been filed for recovery of money based upon a pro-note. The defendant has taken a specific stand that the suit pro-note is the forged document. That apart, the defendant has deposited 50% of the principal amount that is claimed to be due, pending revision petition. There is a delay of 242 days in setting aside the ex-parte order in the suit. Considering the length of the delay and deposit made by the revision petitioner/defendant, this Court is inclined to allow the revision petition.



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8. Accordingly, this Civil Revision Petition stands allowed and the order impugned in the revision petition is hereby set aside with a direction to the trial Court to dispose of the suit as expeditiously as possible. No costs. Consequently, connected miscellaneous petition is also closed.

13.02.2025

Internet: Yes/No
Index: Yes/No
RJR

To

The Principal Sub Court, Tenkasi, Tenkasi District.

Copy to:-

The Section Officer,
VR Section,
Madurai Bench of Madras High Court, Madurai.



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R.VIJAYAKUMAR, J.

RJR

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