



CMP(MD) NO. 18961 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20-02-2025

CORAM

THE HONOURABLE MR JUSTICE G.R.SWAMINATHAN

AND

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

CMP(MD) NO. 18961 of 2024

IN

AS(MD) SR NO. 56274 OF 2023

Samuel Raj
S/o.Antony Muthu Nadar,
No.28, Ilanganathapuram,
Nangaimozhi Village, Tiruchendur Taluk,
Thoothukudi District.

Petitioner(s)

Vs

M.Janet Amala Arul Jothi
W/o.Maria Antony George,
Door No.4/148, Main Road,
Boothakalavilai, Thoothukudi.

Respondent(s)

For Petitioner(s): Mr.V.Sasi Kumar
For Respondent(s): Mr.A.Sankara Ramasubramanian

ORDER

The petitioner herein Thiru.Samuel Raj filed O.S.No.2 of 2018 on the file of II Additional District Court, Thoothukudi for recovery of sum of Rs.20,00,000/- (Rupees Twenty Lakhs only) with interest. The suit was decreed on 07.04.2022. Questioning the same, the defendant Janet Amala Aruljothi filed A.S(MD) SR.No.56274 of 2023. There was a delay of 578 days in filing. To condone the same, the judgment debtor filed C.M.P(MD)No.4520 of 2024. On 11.06.2024, the following



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order was passed:

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“5. The petitioner is directed to: (a) Serve copies of this petition to the respondent; and (b) deposit the admitted sum of Rs.7,50,000/- (Seven Lakhs and Fifty Thousand Rupees only) with interest precondition for this Court to take up this petition on or before 25.06.2024.”

Since the judgment debtor failed to comply with the condition, C.M.P(MD)No.4520 of 2024 was dismissed on 16.07.2024 and the appeal suit was rejected at the SR stage itself. Thereafter, the judgment debtor filed Rev.Aplc(MD)No.114 of 2024. It was allowed on 27.09.2024 in the following terms:

“5. In view of the same, this Court recalls its earlier order dated 16.07.2024, and both the CMP(MD) No.4520 of 2024 and the appeal suit in A.S.(MD)SR.No. 56274 of 2023 are restored to its file on condition that the review petitioner / appellant deposits the said amount within a period of two weeks from the date on which a copy of this order is hosted in the official website, and once the money is deposited, the execution proceedings before the Execution Court will stand stayed.”

2.The judgment debtor subsequently complied with the said condition. To withdraw the said amount, this CMP has been filed. The appeal is yet to be numbered.



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3.The learned counsel appearing for the appellant / judgment debtor submitted that the pronote based on which the suit was instituted is a rank forgery. He would contend that the appellant's husband had forged her signature.

4.We do not want to go into the said contention for a simple reason. At the stage of condonation itself the appellant through her counsel had admitted that her liability would be amount of Rs.7,50,000/- (Rupees Seven Lakhs and Fifty Thousand only). This admission is recorded in Paragraph No.4 of the order dated 11.06.2024 made in CMP(MD)No.4520 of 2024 and also in the order dated 27.09.2024 allowing Rev.Aplc(MD)No.114 if 2024. The plaintiff cannot be denied the right to withdraw the admitted amount.

5.In this view of the matter, this Civil Miscellaneous Petition is allowed.

6.Registry is directed to number the first appeal and list it before us on 27.02.2025.

sd/-
20/02/2025

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/02/2025
Sub-Assistant Registrar (C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

MGA



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TO
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THE II ADDITIONAL DISTRICT JUDGE,
THOOTHUKUDI.

COPY TO

1 THE SUB ASSISTANT REGISTRAR, A.E.SECTION,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

2 THE SECTION OFFICER, JUDICIAL SECTION,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.V.SASI KUMAR, Advocate (SR-1900[I] dated 20/02/2025)

ORDER

IN

CMP(MD) NO. 18961 of 2024

IN

AS(MD) SR NO. 56274 OF 2023

Date :20/02/2025

RS/VR/SAR-(24.02.2025) 4P 5C

Madurai Bench of Madras High Court is issuing
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