

R. Devaraj Vs. V. Vijayalakshmi

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Court : Chennai

Decided On : Aug-19-2016

Judge : M.V. Muralidaran

Appeal No. : CRP (PD). No. 2685 of 2011 & M.P. No.1 of 2011

Appellant : R. Devaraj

Respondent : V. Vijayalakshmi

Judgement :

(Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order dated 16.03.2011 made in I.A.No.49 of 2011 in O.S.No.1713 of 2005 on the file of the II Additional District Munsif Court, Coimbatore.)

1. This petition is filed to set aside the fair and decretal order dated 16.03.2011 made in I.A.No.49 of 2011 in O.S.No.1713 of 2005 on the file of the II Additional District Munsif Court, Coimbatore.

2. The respondent herein filed a suit in O.S.No.1713 of 2005 on the file of II Additional District Munsif Court, Coimbatore, for recovery of money on the basis of promissory note alleged to have been executed on 01.11.2003. The defendant/petitioner herein engaged a counsel to appear in the above suit. Subsequently, the petitioner did not contact his counsel to file his written statement, since he fell ill. Therefore, the said suit was decreed ex parte on

18.03.2010 and hence, the petitioner has filed an application in I.A.No.49 of 2011 to set aside the exparte decree, soon after receiving a notice in E.P.No.75 of 2010. In the mean time, the petitioner has filed another application to condone the delay of 199 days in filing the connected application to set aside the exparte decree dated 18.03.2010 and the said application was dismissed by the trial Court. Challenging the same, the present civil revision petition is filed.

3. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent and perused the materials available on record.

4. Considering the facts and circumstances of the case, the I.A.No.49 of 2011 is allowed subject to the condition that the petitioner shall pay a sum of Rs.3,000/- (Rupees three thousand only) to the Mediation and Conciliation Centre, High Court, Madras, within a period of two weeks from today. Further, the trial Court is directed to consider the set aside application and dispose of the same within a period of one month, from the date of receipt of a copy of this order, by giving notice to both parties. The trial Court is also directed to dispose of the suit in O.S.No.1713 of 2005, within a period of three months thereafter. In this regard, both parties are directed to co-operate for early disposal of the suit. The Civil Revision Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

5. Post the matter after two weeks for reporting compliance .

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