

Michaelraj Vs. Ramamurthy Chettiar

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Court : Chennai

Decided On : Jun-07-2012

Judge : G.Rajasuria, J.

Appeal No. : C.R.P.(NPD).No.1427 of 2012 and M.P.No.1 of 2012

Appellant : Michaelraj

Respondent : Ramamurthy Chettiar

Advocate for Pet/Ap. : Mr.D.S.Thirumavalavan, Adv.

Judgement :

Civil revision petition preferred against the fair and decreetal order dated 27.04.2010 made in CMA No.40 of 2008 on the file of the Additional District Judge, Fast Track Court No.II, Cuddalore reversing the I.A.No.107 of 2007 in O.S.No.146 of 2003 on the file of the Sub Judge Court, Panruti.

ORDER

1. Animadverting upon the order dated 27.04.2010 passed in CMA No.40 of 2008 by the learned Additional District Judge, Fast Track Court No.II, Cuddalore reversing the order passed by the learned Subordinate Judge, Panruti in I.A.No.107 of 2007 in O.S.No.146 of 2003, this civil revision petition is focussed.

2. Heard the learned counsel for the petitioner. At the entertaining stage itself, I have decided to hear the learned counsel for the petitioner.

3. The facts as stood un-curtained in this matter could be encapsulated thus:

The respondent/plaintiff filed the suit for recovering a sum of Rs.2,40,000/- with subsequent interest and costs. Earlier the revision petitioner/defendant remained absent; whereupon exparte order was passed and that was subsequently set aside. Thereafter also the revision petitioner committed default in participating in the trial; whereupon exparte decree was passed. Still thereafter I.A.No.128 of 2006 was filed to get the exparte decree set aside, which was set aside. Once again the defendant committed default; whereupon the exparte decree was passed for the second time, as against which another application was filed in I.A.No.107 of 2007 for getting the exparte decree set aside. The trial Court dismissed the said application, as against which CMA was filed. The appellate Court thought fit to allow the appeal and consequently the application for getting the exparte decree set aside, subject to payment of Rs.10,000/- payable by the revision petitioner to the respondent, but that was not complied with; however, this revision has been focussed.

4. The above narration of facts ex facie and prima facie would reveal that the first appellate Court showed indulgence in giving opportunity to the revision petitioner and absolutely there is no rhyme or reason on the part of the revision petitioner in filing this revision. In fact, the appellate Court was too sympathetic in giving an opportunity to the revision petitioner to get the exparte decree set aside on payment of Rs.10,000/- and that was not complied with by him, but he has chosen to file the revision unjustifiably. As such the revision liable to be dismissed; however, if the sum of Rs.10,000/- (Rupees ten thousand only) as ordered by the appellate Court is paid on or before 25.06.2012, then the exparte decree shall stand set aside, as otherwise, this order will not enure to the benefit of the revision petitioner.

Accordingly, this civil revision petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.