

(1996) 09 MAD CK 0016
In the Madras High Court
Case No : CRP. No. 3381/94

P. Krishnan

APPELLANT

Vs

Indian Overseas Bank, Thillainagar Branch, Tiruchy-18

RESPONDENT

Date of Decision : 17-09-1996

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 9 Rule 13

Citation : (1996) 09 MAD CK 0016

Hon'ble Judges : Jagadeesan, J

Bench : Single Bench

Advocate : Hajee P.K. Jamal Mohamad, for the Appellant; G. Dhesingu, for the Respondent

Judgement

Jagadeesan, J.—The judgment-debtor in O.S. No. 158 of 1993 has filed this Civil Revision Petition against the condition imposed by the

lower court for setting aside the ex parte decree. The suit was decreed ex parte on 30.8.1993. The petitioner herein filed an application under

Order 9 Rule 13, C.P.C. to set aside the ex parte decree on the ground that due to traffic disturbance, he was not able to attend the court on that

particular date. The lower court while allowing the application, I.A. No. 816 of 1993 directed the petitioner to deposit 1/4th of the decree amount

to the credit of the suit as condition for allowing the application. As against this, the petitioner has filed this revision. The lower court has imposed

the condition only on the ground that there is an attempt on the part of the petitioner to protract the money suit.

2. I see from the affidavit filed by the petitioner in support of the application filed under Order 9, Rule 13, C.P.C. that due to the traffic

disturbances, he was not able to attend the court on that date. The respondent

herein did not file any counter to the application, I.A. No. 816 of 1993. Considering the averment made in the affidavit, I am of the view that 1/4th of the decree amount may be an onerous condition. But, however, without any condition, the application filed by the petitioner under Order 9, Rule 13, C.P.C. cannot be ordered, because it has become a routine affair both for the litigants and the members of the Bar to allow the suit to be disposed of ex parte, then filing an application to set aside the ex parte order and in the interlocutory application stage keep the matter pending for more than an year. Hence, to cut down this attitude, it is necessary that some condition should be imposed on the party who is at fault. Hence, I modify the order of the lower court by directing the petitioner to pay the suit costs directly to the respondent herein within three weeks from today along with another Rs. 1,500/- by way of costs to the counsel for the respondent herein which should be paid within four weeks from today. The Civil Revision Petition is ordered accordingly. In case, the petitioner fails to comply with any one of the conditions, the Civil Revision Petition shall stand dismissed.