

and misinterpreted.

19. Consequently, I find merit in this petition and the same is accordingly allowed and the impugned order passed by the learned trial Court on 30.07.2018 is set aside, leaving the parties to bear their own costs. Pending application, if any, also stands disposed of.

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**2019(3) CIVIL COURT CASES 298 (S.C.)**

**SUPREME COURT OF INDIA**

**R.BANUMATHI & R.SUBHASH REDDY, JJ.**

Civil Appeal No.1545 of 2019 (Arising out of SLP(C) No.36394 of 2014), D/07.02.2019.

A.Murugesan

Vs

Smt.Jamuna Rani

**Civil Procedure Code, 1908, O.9.R.13 — Ex parte decree - Setting aside - Counsel could not appear due to boycott of Courts by Advocates - Sufficient cause shown for non appearance - Ex parte decree set aside.**

**(Paras 7, 12 & 13)**

*Cases referred:*

G.P.Srivastava vs. R.K.Raizada and Others, 2000(2) Civil Court Cases 714 (S.C.) : 2000(1) Apex Court Journal 371 (S.C.) (Para 7)

*Counsels:*

Mr.C.Paramasivam, Mr.Rakesh K.Sharma, Ms.Akshara Naidu, for the Appellants

Ms.Shobha Ramamoorthy, Sri Ram J.Thalapathy, Mr.Shilp Vinod, Mr.Pushkin Rajkumar, for the Respondents.

#### **JUDGMENT**

**R.Subhash Reddy, J.** - Leave granted.

2. This civil appeal is preferred by the defendant, in Original Suit No.92/1997 on the file of Sub-Judge, Chidambaram, aggrieved by the order dated 17.04.2014, passed by the High Court of Judicature at Madras, dismissing the Civil Revision Petition (NPD) No.1202 of 2014. By virtue of the aforesaid order, the High Court has confirmed the order of the Trial Court, dismissing the application filed by the petitioner, under Order IX Rule 13 of CPC.

3. The respondent-plaintiff has filed the aforesaid suit for specific performance of the Agreement dated 11.10.1995. It is a case of the respondent-plaintiff that out of total consideration of Rs.3,00,000/- (Rupees Three Lakhs), he has already paid Rs.2,25,000/- (Rupees Two Lakh Twenty-Five Thousand) and in spite of his readiness to pay the balance amount, the appellant-defendant is not ready to execute the sale deed by receiving the balance consideration amount. During the trial, the aforesaid suit was listed for hearing on 16.03.2009. On the aforesaid date, on the ground that there was no representation on behalf of the appellant, the appellant was put *ex-parte*, and *ex-parte* decree was passed, decreeing the suit.

4. The appellant-defendant has filed the application under Order IX Rule 13