

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.04.2015

Coram

THE HON'BLE MR. JUSTICE M.DURAI SWAMY

C.R.P.(NPD) No. 787 of 2014 &
M.P.No.1 of 2015

Par Lingam

.. Petitioner

.. Vs ..

1.Velusamy Gounder

2.Muthu Swamy Gounder

3.Palanisamy

4.Segamalai Gounder (deceased)

5.Tulasiammal (Deceased)

6.Deivathal alias Deivanayagam

7.Periappan alias Ramaswamy

8.Sivasamy

9.Sundaram

10.Rathinam

11.Paramasivam

.. Respondents

Prayer:- Civil Revision Petition is filed under Section 115 of the Civil Procedure Code against the Judgment and decree dated 19.08.2013 made in I.A.No.7 of 2012 in I.P.No.14 of 2007, on the file of the Sub Court, Pollachi.

For Petitioner : Mr.B.Ramamoorthy

For Respondents : Mr.C.Prakasam – R1 to R3

R4 & R5 – Died

Mrs.R.Hemalatha -R6 to R11

ORDER

Aggrieved over the fair and final order passed in I.A.No.7 of 2012 in I.P.No.14 of 2007, on the file of the Sub Court, Pollachi, the second respondent in the Insolvency Petition has filed the above Civil Revision Petition.

2.The petitioner filed an Application in I.A.No.7 of 2012, to condone the delay of 409 days in filing the petition to set aside the exparte order passed in I.P.No.14 of 2007 on 08.12.2010. The petitioner has stated that as he was suffering from jaundice, he

could not file the Application in time. The respondents 1 to 3 contested the Application by stating that the petitioner has not given any sufficient cause for condoning the delay. The trial Court after taking into consideration of the case of both parties, dismissed the Application, finding that the petitioner has not established his illness by adducing any documentary evidence. Aggrieved over the same, the second respondent in Insolvency Petition has filed the above Civil Revision Petition.

3.Before the trial Court, the petitioner was examined as P.W.1 and he had deposed about his illness. The petitioner has also stated that he was taking 'native treatment' for jaundice and that he filed the Application immediately after becoming alright.

4.The petitioner has given acceptable reasons for condoning the delay of 409 days. Mr.C.Prakasam, learned counsel appearing for respondents 1 to 3 submitted that the respondents 1 to 3 who are the contesting respondents have no objection for allowing the Civil Revision Petition. Further, being satisfied with the reasons stated in the affidavit filed in support of I.A.No.7 of 2012, I am of the view that the fair and decreetal order passed in I.A.No.7 of 2012, is liable to be set aside, accordingly set aside.

5.The Revision Petitioner has also filed a Miscellaneous Petition in M.P.No.1 of 2015, to permit him to deposit a total sum of Rs.7,44,800/-, which includes interest at the rate of 6% p.a. till 3.12.2014, before the Sub Court, Pollachi, to the credit of I.P.No.14 of 2007.

6.In the affidavit filed in support of the Petition, the petitioner has stated that instead of proceeding with the matter further before the trial Court, the petitioner is discharging the entire dues by making the deposit of Rs.7,44,800/-.

7.The learned counsel appearing for respondents 1 to 3 submitted that in the case of the petitioner depositing the said amount before the Sub Court, Pollachi, the respondents 1 to 3 may be permitted to withdraw the amount deposited by the petitioner.

8.Having regard to the submissions made by the learned counsel on either side, the petitioner is directed to deposit the total amount of Rs.7,44,800/-, which includes the interest at the rate of 6% p.a. from the date of petition to till 31.12.2014 and a further interest from 01.01.2015 to till the date of payment at the rate of

6% p.a. before the Sub Court, Pollachi to the credit of I.P.No.14 of 2007, within a period of two weeks from the date of receipt of a copy of this order. On such deposit being made by the petitioner, the respondents 1 to 3 are permitted to withdraw the amount from the Sub Court, Pollachi, on production of a copy of this order.

With these observations, the Civil Revision Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

09.04.2015

rpa

Note:Issue order copy on 10.04.2015

To

- 1.The learned Sub Judge, Pollachi.
- 2.The Section Officer, V.R.Section.

**M.DURAI SWAMY,J.
rpa**

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