

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2016

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(NPD)No.915 of 2014 &
M.P.No.1 of 2014

T.V.Vasudevan

... Petitioner

v.

Ramanatha Chettiar

... Respondent

Civil Revision Petition filed under section 115 of the Code of Civil Procedure, against the order dated 28.02.2013 in E.A.No.37 of 2012 in E.P.No.63 of 2010 in O.S.No.23 of 1978 on the file of Sub Judge, Tirupattur, Vellore District.

For Petitioner : Mr.R.Rajarajan

For Respondents : Mr.V.Lakshmi Narayanan

ORDER

Challenging the order passed in E.A.No.37 of 2012 in E.P.No.63 of 2010 in O.S.No.23 of 1978 on the file of Sub Judge, Tirupattur, the 11th Judgment Debtor has filed the above Civil Revision Petition.

2. Pursuant to the decree passed in O.S.No.23 of 1978, the respondent-plaintiff filed an Execution Petition in E.P.No.63 of 2010 for taking possession of the property.

3. Since the revision petitioner remained absent before the Execution Court, an ex-parte order was passed in the Execution Petition on 23.04.2010. Thereafter, the revision filed an application in E.A.No.37 of 2012 under Order 21, Rule 106 of CPC to set aside the ex-parte order passed in the Execution Petition.

4. Though the ex-parte decree was passed on 23.04.2010, the present application i.e., E.A.No.37 of 2012 was filed only on 02.07.2012.

5. It is pertinent to note that even without filing an application for condonation of the delay, the present application has been filed by the 11th Judgment Debtor to set aside the ex-parte order passed in the Execution Petition.

6. The Execution Court, taking into consideration all these aspects, rightly dismissed the application.

7. When the application to set aside the ex-parte order was passed

after a lapse of two years, it is bounden duty of the petitioner to explain the reasons for not filing the application at the earliest point of time.

8. In these circumstances, I do not find any error or irregularity in the order passed by the Execution Court. The Civil Revision Petition is devoid of merits and is liable to be dismissed. Since the suit was decreed in the year 2009 and the Execution Petition was filed in the year 2010, I direct the Sub Judge, Tirupattur, to dispose of the Execution Petition in E.P.No.63 of 2010 on merits and in accordance with law, within a period of two months from the date of receipt of a copy of this order.

With these observations, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

15.11.2016

Index : Yes/No

Rj

To

The Sub Judge,
Tirupattur,
Vellore District.

M. DURAISWAMY,J.,

C.R.P.(NPD)No.915 of 2014 &
M.P.No.1 of 2014

15.11.2016

<http://www.judis.nic.in>