

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.09.2016

CORAM

THE HONOURABLE MR.JUSTICE T. MATHIVANAN

Civil Revision Petition (NPD) No.1832 of 2012 &
M.P.No.1 of 2012

P.Rangasamy

... Petitioner

Versus

K.Marimuthu

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order dated 14.03.2012 passed in I.A.No.2196 of 2010 in O.S.No.569 of 2004 on the file of the District Munsif, Pollachi.

For Petitioner : Mr.C.Veeraraghavan

For Respondent : Mr.R.Kannan

ORDER

Challenging the fair and decreetal Order dated 14.03.2012 passed in the I.A.No.2196 of 2010 in O.S.No.569 of 2004 on the file of the District Munsif, Pollachi, this memorandum of Civil Revision has been filed by the petitioner, who is the defendant in the suit. The respondent herein is the plaintiff in the suit.

2. It appears from the records, that the respondent/plaintiff had filed a suit in O.S.No.569 of 2004 for recovery of money to the extent of Rs.57,250/- along with the subsequent interest on the principal amount of Rs.50,000/-. The suit was decreed exparte. Based on the decree, the respondent/plaintiff had taken out an execution proceedings in E.P.No.118 of 2008. It is brought to the notice of this Court, that the revision petitioner/defendant had participated in the execution proceedings. However, he had failed to file a petition to set aside the exparte decree within the prescribed period of 30 days. It also appears from the records that the revision petitioner had filed a petition in I.A.No.2196 of 2010 to condone the delay of 1916 days in filing an application under Order IX Rule 13 of the Code of Civil Procedure to set aside the exparte decree. The said application was dismissed by the trial Court on 14.03.2012 on the ground that the revision petitioner/defendant had failed to show sufficient cause to condone the delay of 1916 days. Having been aggrieved by the impugned order, the revision petitioner/defendant stands before this Court.

3. It is revealed from the records that the execution proceedings, taken out by the respondent/plaintiff for realization of Rs.57,250/- along with the accrued interest is still pending.

4. Heard the learned counsel for the revision petitioner as well as the learned counsel for the respondent and perused the grounds of the revision along with the impugned order.

5. The learned counsel on either side are not able to clarify whether the execution proceedings is still pending or not. Further, this Court perused the affidavit filed in support of I.A.No.2196 of 2010 as well as the impugned order. The trial judge had found that the revision petitioner/defendant had failed to prove the delay after making appearance in the execution petition in E.P.No.118 of 2008 and since the petition had to be filed within 30 days from the date of the knowledge of decree, after receiving the notice in the execution proceedings, this petition deserves to be dismissed.

6. Accordingly, this revision petition is dismissed, as this Court does not want to interfere to exercise the revisional jurisdiction to set aside the order impugned and the order in I.A.No.2196 of 2010 is confirmed. However, there shall be no order as to cost. Consequently, the connected miscellaneous petition is closed.

27.09.2016

Index:yes/no
Internet:yes

vrc

To

The District Munsif,
Pollachi.

T.MATHIVANAN, J.,

vrc

C.R.P.(NPD) No.1832 of 2012

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