

HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CIVIL REVISION PETITION No.2949 OF 2016

ORDER:

This revision is filed under Article 227 of the Constitution of India questioning the inaction of the Senior Civil Judge at Rajam in disposal of E.A. No.180 of 2015 in E.P. No.10 of 2012 in O.S. No.2 of 2004.

02. It is the case of the petitioner that the petitioner filed E.A. No.10 of 2012 in E.P. No.10 of 2012 in O.S. No.2 of 2004 to adopt market value furnished by the Sub-Registrar as true value of schedule property and unless the market value furnished by the Sub-Registrar is not adopted in E.A. No.180 of 2015 and put to sale the schedule property to realize the decretal debt, he will put to irreparable loss and injury. But the executing court i.e. Senior Civil Judge, at Rajam, adjourning the matter. In support of his case, he produced certified copy of the docket sheet in E.A. No.180 of 2015.

03. A perusal of the docket proceedings would go to show that the learned Judge adjourned the matter without assigning any reason and even without request of the counsel appearing on behalf of the parties. The Courts are not expected to adjourn the matters at their whims, more particularly, when the petitioner is reporting ready before the Senior Civil Judge, Rajam. Adjourning the matters without any reason by the trial court is arbitrary exercise of power and the court shall not cause delay in disposal of the matters.

04. In **SHIV COTEX V. TIRGUN AUTO PLAST PRIVATE LIMITED AND OTHERS**^[1] at paragraph 16, the Apex Court made serious observation as follows:

"16. No litigant has a right to abuse the procedure provided in the CPC. Adjournments have grown like cancer corroding the entire body of justice delivery system. It is true that cap on adjournments to a party during the hearing of the suit provided in the proviso to Order 17 Rule 1 CPC is not mandatory and in a suitable case, on justifiable cause, the court may grant more than three adjournments to a party for its evidence but ordinarily the cap provided in the proviso to Order 17 Rule 1 CPC should be maintained. When we say 'justifiable cause'

what we mean to say is, a cause which is not only 'sufficient cause' as contemplated in sub-rule (1) of Order 17 CPC but a cause which makes the request for adjournment by a party during the hearing of the suit beyond three adjournments unavoidable and sort of a compelling necessity like sudden illness of the litigant or the witness or the lawyer; death in the family of any one of them; natural calamity like floods, earthquake, etc. in the area where any of these persons reside; an accident involving the litigant or the witness or the lawyer on way to the court and such like cause. The list is only illustrative and not exhaustive."

05. Despite directions issued by the Apex Court, the Senior Civil Judge, Rajam, adjourning the E.A. No.180 of 2015 without assigning any reason and without any request of the counsels appearing on behalf of the parties before the Court, and, such inaction is deprecable. Hence, I find that it is a fit case to direct the Senior Civil Judge, Rajam to decide E.A. No.180 of 2015 in E.P. No.10 of 2012 in O.S. No.2 of 2004 within one month from the date of receipt of this order.

06. Accordingly, the revision is allowed. No costs.

07. Miscellaneous petitions, if any, pending in this revision shall stand closed.

M. SATYANARAYANA MURTHY, J

Date: 24.06.2016

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^[1] (2011) 9 SCC 678