

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.10.2017

CORAM

THE HONOURABLE MR. JUSTICE **D. KRISHNAKUMAR**

**C.R.P.(NPD).No.3528 of 2017
and CMP.No.16321 of 2017**

S.Subramanian

... Petitioner

Vs.

1. Dhanalakshmi Srinivasan
Chit Funds (P) Ltd.,
Neyveli, Cuddalore District.

2. R.Elangovan

3. D.Elangovan

A.Thambidurai (died),

... Respondents

Prayer : Civil Revision Petition is filed under Section 115 of the Civil Procedure Code to set aside the order dated 28.04.2016 passed in E.P.278 of 2012 in A.R.72 of 2012 on the file of the I Additional Subordinate Judge, Cuddalore.

For Petitioner

: Mr.S.Alex Raj

For Mr.R.Gururaj

ORDER

According to the petitioner, by order dated 17.04.2017,

this Court has granted an interim stay on condition that the petitioner shall deposit a sum of Rs.75,000/- (Rupees Seventy Five Thousand only) to the credit of Execution Petition No.278 of 2012 in AR.No.72 of 2012 on the file of I Additional Subordinate Court, Cuddalore. If the said condition is not complied with by the petitioner, the interim stay granted by this Court would stand automatically vacated, without any further reference to this Court. According to the petitioner, the petitioner filed lodgment schedule on 02.06.2017 before the court below for compliance of the Order of this Court. However, lodgment schedule was returned. The petitioner has challenged the same in the present Civil Revision Petition before this Court against the return of lodgment schedule dated 02.06.2017.

2. According to the learned counsel for the petitioner, this Court has directed to comply with the conditional order dated 17.04.2017 on or before 02.06.2017. As such, the said lodgment schedule has been filed on 02.06.2017. Therefore, return of the lodgment schedule by the court below is liable to be set aside.

3. A perusal of the record would show that this court has

granted time till 02.06.2017 for compliance of the conditional order. According to the learned counsel for the petitioner, the trial court has proceeded with the EP.No.278 of 2012, despite the petitioner filed the lodgement schedule on 02.06.2017. The petitioner has stated in the affidavit, after receipt of the order of this Court, the trial court has suo moto advanced the hearing to 28.04.2017 and closed the proceedings and recorded that the EP had been already closed and therefore it is a clear case of contempt of Court. As seen from the affidavit, there is no reason shown in the affidavit for non-compliance of the order dated 17.04.2017 till 02.06.2017. The petitioner has filed only lodgment schedule on 02.06.2017. Without stating any reasons in the affidavit, for not complying with the conditional order the grounds raised by the petitioner, is unsustainable in law. Further, the petitioner ought to have filed an application for extension of time for depositing the said amount, if not paid within time. A perusal of records would show that the said EP.No.278 of 2012 was taken up on 02.06.2017 by the court below and since there was no representation for the respondent at the time when the matter was called and passed over till 05.40 p.m. At that time also, there was no representation for the respondent, hence recorded that the conditional order passed by this Court was

not complied with and posted the EP on 15.06.2017 for further proceedings. Perusal of the records would reveal that interim conditional order granted by this Court has been received by the court below on 28.04.2017. In the light of the interim order granted by this Court, further proceedings has been posted on 02.06.2017. From the typed set of papers filed by the petitioner, it is seen that on 02.06.2017, the court below has recorded as follows.

" Counsel for Decree holder present. No rep. for R1. Passed over. Again called at 05.40 p.m. No rep. for Respondent. Conditional Order passed by the Hon'ble High Court not complied with. Further proceedings."

4. Pursuant to that, the court below further posted on 15.06.2017 for appearance of the decree holder and judgment debtor. But, the petitioner has filed the Civil Revision Petition before this Court stating that the court below has disobeyed the interim order granted by this Court.

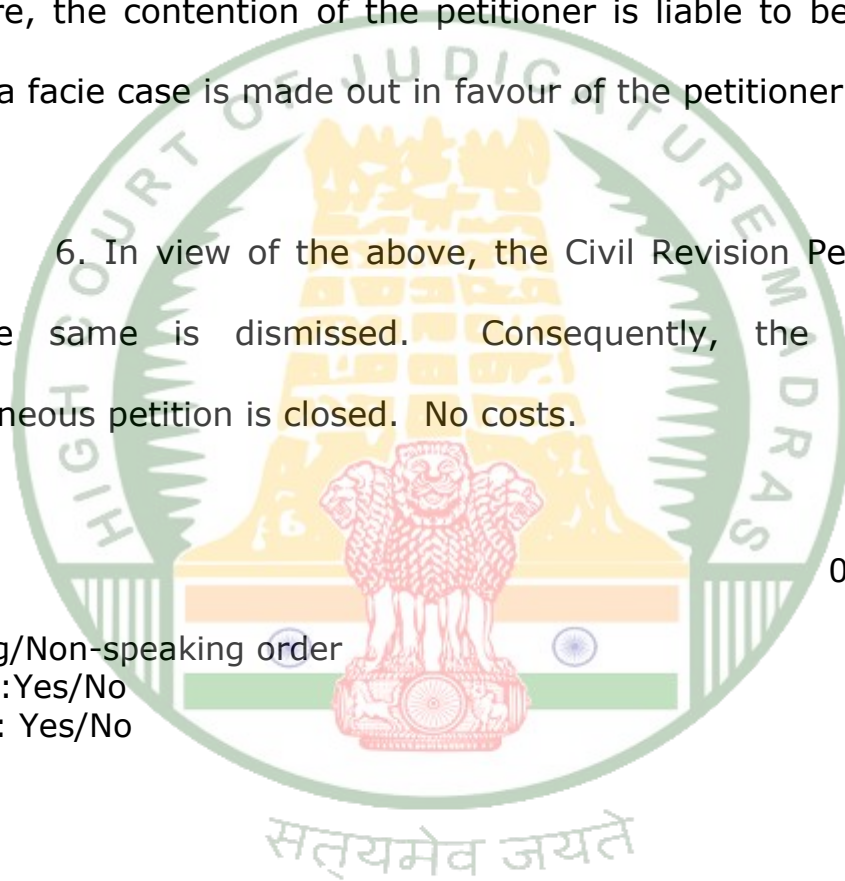
5. It is clear from the said facts, the petitioner making

false allegations in the present revision petition without producing any materials. Further, the petitioner has not shown any bonafide reason for non-compliance of the conditional order passed by this Court, except filing the lodgment schedule before the court below. Therefore, the contention of the petitioner is liable to be rejected. No prima facie case is made out in favour of the petitioner.

6. In view of the above, the Civil Revision Petition fails and the same is dismissed. Consequently, the connected miscellaneous petition is closed. No costs.

04.10.2017

Speaking/Non-speaking order
Index :Yes/No
Internet: Yes/No
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D. KRISHNAKUMAR J.

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To

The I Additional Subordinate Judge,
I Additional Sub Court,
Cuddalore.



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