



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 15.12.2017

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P. (PD) (MD) .No.2278 of 2017

and

C.M.P. (MD) .No.11059 of 2017

1. S.Santha
2. S.Packiyam
3. S.Revathi
4. S.Ilayanila

... Petitioners

Vs.

Govi.Kannan

... Respondent

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India against the return docket order passed on 09.10.2017 in unnumbered A.S.No. of 2017 by the Principal District and Sessions Judge, Theni.

For Petitioners : Mr.M.A.M.Raja
For Respondent : Mr.R.Suriya Narayanan

O R D E R

The Civil Revision Petition has been filed against the return docket order passed on 09.10.2017 in unnumbered A.S.No. of 2017 by the Principal District and Sessions Judge, Theni.

2. The petitioner would aver that the respondent filed a false case against the petitioners before the Sub Court, Theni in O.S.No.170 of 2017 and it was decreed on merits. Thereafter, the respondent filed an Execution Petition in E.P.No.209 of 2016 to execute the decree passed by the Sub Court, Theni, which is still pending. In the mean while, the respondent approached the elders and relatives and it was stated that the present petitioners having no



liability to pay as per the decree in O.S.No.170 of 2014. Hence, the respondent lodged a complaint before the Vaigai Dam Police Station and after enquiry, it was closed as 'False Complaint'. Again the respondent filed a complaint before the Andipatti Police Station for the same issue and F.I.R. was also registered against the petitioners in Crime No.102 of 2017 and the Andipatti Police forced the petitioners to settle the amount in E.P.No.209 of 2016 pending before the Sub Court, Theni. Therefore, the petitioners filed a quash petition in CrI.O.P.(MD).No.2432 of 2017 before this Court and this Court, by an order dated 07.03.2017, directed the Deputy Superintendent of Police, Andipatti Police Station to enquire the matter and to dispose of the same. Accordingly, the Deputy Superintendent of Police, Andipatti Police Station enquired the matter and closed the same as 'Mistake of Fact'.

3. The learned counsel for the petitioners would submit that because of the continuous torture and the illegal activity of the respondent, they were not able to file an appeal in time. He would further submit that the petitioners have filed an appeal with the delay of 424 days, but it has been returned stating that there is a correction in the decree copy. He would also submit that while returning the petition, the Execution Petition has been proceeded and the decree copy in the Execution Petition has not been corrected till date. Hence, he has prayed for stay of the E.P. Proceedings.

4. The learned counsel for the respondent would submit that the order copy has been corrected and thereafter, Execution Petition has been filed before the Sub Court, Theni.

5. This Court is of the view that when there is a mistake in the copy, the Execution Petition ought not to have been proceeded, but one side E.P. has been proceeded and the other side, the appeal filed by the petitioners has been returned. In my considered opinion, ends of justice would be met, if the following directions can be granted.



The learned Sub Judge, Theni shall issue a corrected decree copy to the petitioners within a period of two weeks from the date of receipt of a copy of this order and the petitioners shall represent the appeal within a period of two weeks thereafter. The learned Sub Judge, Theni shall pass order on the interim application within a period of four weeks from the date of receipt of a copy of this order. Till then, there shall be an order of interim stay of all further proceedings in E.P.No.209 of 2016.

6. The Civil Revision Petition is disposed of with the above direction. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

1. The Principal District and Sessions Judge,
Theni.
2. The Sub Judge,
Theni.
3. The Record Keeper,
VR Section,
Madurai Bench of Madras High Court,
Madurai.

+1cc to M/S.M.A.M.RAJA, Advocate SR.No.93453.
+1cc to M/S.R.SURIYANARAYANAN, Advocate SR.No.93243.

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