

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 05.06.2018

CORAM

The Hon'ble Mr.Justice **P.VELMURUGAN**CRP(PD)No.1321 of 2018
and
C.M.P.No.6883 of 2018

S.Sheikjaffer .. Petitioner

vs.

K.Venkatraman .. Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India as against the fair and decretal order dated 31.07.2017 passed in I.A.No.409 of 2017 in I.A.No.560 of 2016 in O.S.No.138 of 2013 by the learned Subordinate Judge, Cheyyar.

For Petitioner ... Ms.M.Sudha

ORDER

The Civil Revision Petition has been filed by the petitioner against the fair and decretal order dated 31.07.2017 passed in I.A.No.409 of 2017 in I.A.No.560 of 2016 in O.S.No.138 of 2013 by the learned Subordinate Judge, Cheyyar.

2. The petitioners herein is the defendant and the respondent herein is the plaintiff.

3. The brief facts of the case are as follows:

The respondent/plaintiff filed a suit in O.S.No.138 of 2013 against the petitioner/defendant on the file of the Sub Court, Madurantakam to direct the petitioner/defendant to receive the balance sale consideration, execute and register the sale deed in favour of the respondent/plaintiff in respect of the suit property as per the agreement dated 23.09.2010 and put the plaintiff in possession of the suit property. Pending suit, the petitioner/defendant filed an application in I.A.No.560 of 2016 under Section 5 of the Limitation Act to condone the delay of 683 days in filing an application to set aside the ex-parte decree dated 01.07.2014 in O.S.No.138 of 2013 and the same was allowed on 17.06.2017 on condition that the petitioner has to deposit a sum of Rs.1,50,000/- before the trial Court on or before 30.06.2017, otherwise, the petition will stand dismissed. Accordingly, the said application was dismissed on 30.06.2017 as the petitioner has not complied with the conditional order dated 17.06.2017. The petitioner again filed another application in I.A.No.409 of 2017 to grant 30 days time to the petitioner to deposit 1/3rd amount of the suit amount and the same was dismissed on 31.07.2017. Aggrieved by the said order, the present civil revision petition has been filed.

4. When the civil revision petition was taken up for hearing on

04.05.2018, the learned counsel for the petitioner submitted that the petitioner borrowed a sum of Rs.3,00,000/- and out of which, he paid Rs.1,50,000/- to the respondent and the same was also endorsed by the respondent. Due to ill health, the petitioner did not know the exparte decree passed against him and he could not deposit the amount as ordered by the trial Court. Hence, the learned counsel for the petitioner seeks time to deposit the amount. Accordingly, the petitioner was granted time to produce Demand Draft for Rs.1,50,000/- on 05.06.2018 and the matter stands adjourned on the same day.

5. When the civil revision petition was taken up for hearing today at 10.30 a.m, there was no representation for the petitioner. Hence, the matter was passed over. Again, when the matter is taken up for hearing at 4.45 p.m, also there is no representation for the petitioner. It shows that the petitioner failed to prove his bona-fide before the trial Court as well as this Court as the petitioner filed this civil revision petition after one year from the date of passing of the impugned conditional order dated 31.07.2017. Even today also, the petitioner is not ready to deposit the said amount.

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6.In view of the above, the civil revision petition has no merit. There is no illegality or infirmity in the order passed by the trial Court warranting interference.

In the result, the Civil Revision Petition is dismissed. No costs. Consequently connected miscellaneous petition is closed.

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Index:Yes/No

Speaking Order:Yes/No

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To

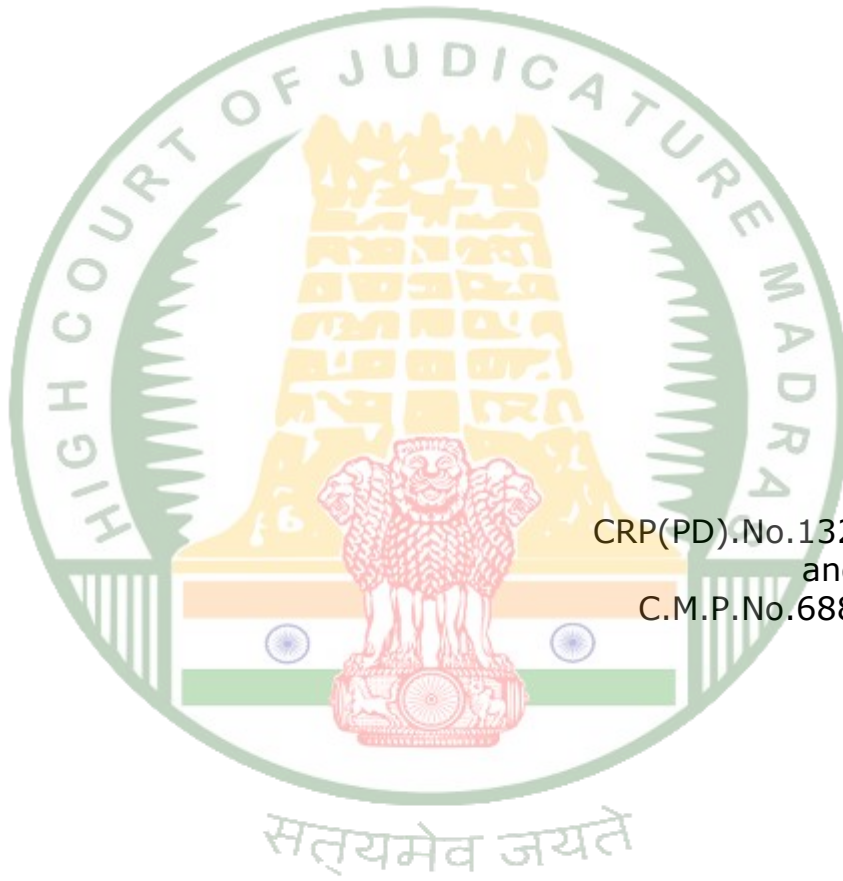
The Subordinate Judge,
Cheyyar.

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