

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.01.2018

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

CRP (NPD) No.273 of 2018

P.Mohan

... Petitioner

Vs

1.K.Govindasamy

2.V.Rajasekaran

.. Respondents

PRAYER: This Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure, to set aside the order of returning the application dated 06.01.2018 against R.E.A.SR.No.7576 of 2017 in R.E.P. No.5 of 2016 in O.S. No.130 of 2015 on the file of the Principal Subordinate Court, Krishnagiri.

For Petitioner :Mr.C.Prabakaran

ORDER

This Civil Revision Petition is filed against the order of returning the application dated 06.01.2018 against R.E.A.SR.No.7576 of 2017 in R.E.P. No.5 of 2016 in O.S. No.130 of 2015 on the file of Principal Subordinate Court, Krishnagiri.

2. The learned counsel appearing for the petitioner would submit that the Execution Application in R.E.A.SR.No.7576 of 2017 in R.E.P. No.5 of 2016 in O.S. No.130 of 2015 has been filed by the petitioner on 19.12.2017 and the said application was returned on 21.12.2017 with an endorsement as *"1.How this petition is maintainable in this stage 2. Auction purchaser not included in the petition? 3.Correct Provision of law to be noted?"*. The petitioner represented the paper on 22.12.2017. Again, the paper was returned on 06.01.2018 with an endorsement that the respondent already set ex-parte on 06.06.2016, without filing the set aside petition and also raised query about the maintainability. Challenging the aforesaid return the petitioner has filed the present Civil Revision Petition before this Court.

3.According to the learned counsel for the petitioner, already filed an application in I.A. No.273 of 2017 to set aside the exparte decree order passed in the Execution Proceedings. Without considering the petitioner's explanation the Court below returned the papers. In the light of the above, the petitioner has to explain the above said facts before the Court below. Therefore, this Court is inclined to pass order as follows:

1.The Revision Petitioner is permitted to represent the application with proper explanation about the returns made by the Court below within a period of one week from the date of receipt of a copy of this order.

2.In the event of the said application has been filed by the petitioner, the Court below if satisfies, and if it is in order, to number the same and to decide the issues in accordance with law.

4. In the light of the above, the Civil Revision Petition is disposed of. No Costs.

25.01.2018

Speaking / Non Speaking order

Index :Yes/No

Internet :Yes/No

RKP

Note: Registry is directed to return the original copy of the plaint to the petitioner after obtaining copy of the same.

Issue order copy on 29.01.2018

D. KRISHNAKUMAR J.,

RKP

To:

The Principal Subordinate Judge,
Krishnagiri.



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25.01.2018

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