

**HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN**

**Civil Revision Petition No.3754 of 2018**

**ORDER:**

Aggrieved by an order allowing the restoration of an Execution Petition, the judgment debtor has come up with the above revision.

2. Heard Mr. M. Chalapathi Rao, learned counsel for the revision petitioner.

3. The Execution Petition was dismissed only for the failure of the decree holder to file sale papers, Encumbrance Certificate and latest Market Value Certificate. Therefore, the restoration of the same cannot be said to be arbitrary warranting interference under the revisional jurisdiction of this Court.

4. Though the learned counsel contended that the present order has given a lease of life to an execution, which would have otherwise become barred by limitation due to long efflux of time, I do not think that the same should be a parameter even for dismissing of an application. If the fact that the very Execution Petition will be barred by limitation cannot be a ground to allow the application for restoration, the same cannot also be a ground for dismissing of an application for restoration.

5. The learned counsel for the revision petitioner contended that the decree itself was a nullity on account of an unregistered partnership firm filing the suit. But this is a question that the petitioner should have either raised before the trial Court or should at least raise in the execution proceedings. This cannot be raised in an application for restoration of the E.P. Therefore, leaving it open to

the petitioner to raise all objections available to him under law within a week from the date of receipt of a copy of the order, this Civil Revision Petition is dismissed. No costs.

As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

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**V. RAMASUBRAMANIAN, J**

Date: 06-07-2018

**Note:** Issue C.C. today.

B.O./Ksn

