

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.04.2019

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THE HONOURABLE **Ms.JUSTICE P.T.ASHA**

CRP.(NPD).Nos.1267 & 1268 of 2019

and

CMP.Nos.8253 & 8261 of 2019

1.K.Seshadri

2.Dr.Sudha

..Petitioners/Defendants
in both CRPs

Vs

R.Prabhakaran @ R.Prabhakar

..Respondent/Plaintiffs
in both CRPs

Prayer in 1267 of 2018: This Civil Revision Petition filed under Section 115 of the Code of Civil Procedure to set aside the docket order dated 15.03.2019 passed in E.A.S.R.No.11402 of 2019 in E.P.No. 144 of 2016 in O.S.No. 10760 of 2010 by the learned X Assistant Judge, City Civil Court.

Prayer in 1268 of 2019: This Civil Revision Petition filed under Section 115 of the Code of Civil procedure and to set aside the order dated 15.03.2019 passed in E.P.No. 144 of 2016 in O.S.No. 10760 of 2010 by the learned X Assistant Judge, City Civil Court, Chennai.

For Petitioners
in both CRPs

: Dr.S.S.Swaminathan

COMMON ORDER

E.A.SR.No.11402 of 2019 is filed to condone the delay of 1033 days in filing the application to set aside the exparte order in E.P.No.144 of 2016 and E.A.SR.No.11403 is filed for setting aside the ex-parte order.

2 In the affidavit filed in support of the said petitions, which is common to both the applications, averments made was that after the suit had been decreed after full fledged trial, the plaintiff had shifted his residence. It is seen that the Executing Court had issued notice to the plaintiff/deGREE holder and the notice was served on the last known address and therefore after service being completed, execution petition was heard and ordered.

3 Thereafter, it is the case of the first revision petitioner that on 30.01.2019, he had met one of his counsel on record, who had conducted the suit on his way home and at that point of time he had enquired with respect to the case and thereafter, after verifying the Court records his counsel informed him that the Executing Court had ordered execution and that notices were sent to the first revision petitioner's previous address, which were returned with the endorsement left.

4 The first revision petitioner would said that he is suffering from Diabetics and he had been advised to be under medication since the glucose level had been consistently getting high and it lead to losing his consciousness and his wife being a doctor, insisted to put him under medication periodically. The affidavit is totally bereft of other details excepting the fact that he had come to know about the execution on 30.01.2019, it appears that the revision petitioners application for setting aside the ex-parte decree was filed in E.A.SR.No. 6891 of 2019. However, without representing the said application, the revision petitioners had proceeded to file a fresh application. On 15.03.2019, this application was closed stating that earlier petitions in E.A.SR.Nos.6891 & 6892 of 2019 and had not been re-presented and on the very same day the learned Judge had also ordered, the execution proceedings.

5 Heard the counsel for the revision petitioner.

6 This Court does not find any infirmity in the order passed by the X Assistant City Civil Judge, as the application had been closed only on account of the fact that the earlier petitions had not been represented and a fresh application has been filed.

However, liberty is given to the revision petitioners to represent the

E.A.S.R.No. 6891 of 1992, after duly complying with the returns.

P.T.ASHA, J.

dua

7 In the result, these Civil Revision Petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are also closed.

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Index: Yes/No
Internet: Yes/No
Speaking order / Non-speaking order

08.04.2019

To

The X Assistant Judge,
City Civil Court,
Chennai.

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