



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.R.P(MD)No.1353 of 2019

and

C.M.P. (MD)No.7287 of 2019

Mariammal

...Petitioner/Petitioner/Respondent
/ Defendant

Vs.

Mariappan

...Respondent / Respondent /
Petitioner / Plaintiff

PRAYER: Civil Revision Petition is filed, under Under Section 115 of Civil Procedure Code, against the fair and decretal order, dated 08.03.2019, passed in E.A.No.1 of 2019 in E.P.No.25 of 2018 in O.S.No.116 of 2014 on the file of the Principal District Munsif Court, Sivagiri.

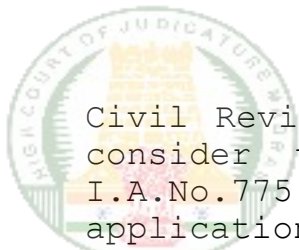
For Petitioner : Mr.T.Selvan

O R D E R

This Civil Revision Petition has been filed against the order of dismissal, dated 08.03.2019, passed in E.A.No.1 of 2019 in E.P.No.25 of 2018 in O.S.No.116 of 2014 by the learned Principal District Munsif, Sivagiri.

2.Heard the learned counsel appearing for the petitioner and perused the materials available on record.

3.The learned counsel for the revision petitioner would contend that E.A.1 of 2019 has been filed for the purpose of stay of E.P.No.25 of 2018. Further, the learned counsel would contend that the respondent / plaintiff filed the suit for recovery of money on pronote and exparte decree was passed on 15.09.2015. Thereafter, the petitioner / defendant filed application in I.A.No.775 of 2018 to condone the delay of 1100 days in filing the application in I.A.No.776 of 2018 to set aside the ex-parte decree, dated 15.09.2015 and these two applications are pending before the trial Court. Under these circumstances, the Execution Petition in E.P.No.25 of 2018 was filed against the exparte order. He would further contend that the petitioner / defendant filed E.A.No.1 of 2019 for the stay of the proceedings in E.P.No.25 of 2018, but the said application was dismissed. Therefore, he preferred the present



Civil Revision Petition stating that the Executing Court failed to consider the fact that the revision petitioner has preferred I.A.No.775 of 2018 to condone the delay of 1100 days in filing the application in I.A.No.776 of 2018 to set aside the ex-parte decree. When those applications are pending, if any order is passed based on the exparte order, it will affect the rights of the revision petitioner. Further he would contend that they have already borrowed a sum of Rs.1,00,000/- and the said amount was also paid. In these circumstances, the plaintiff filed the suit for recovery of a sum of Rs.57,900/- and that the petitioner / defendant has valid defence to contest the case on merits.

4.In view of the fact that the revision petitioner has filed applications to condone the delay and set aside the exparte order passed in O.S.No.116 of 2014, dated 15.09.2015 and when these applications are pending, if any order is passed in the Execution Petition, it will affect the interest of the revision petitioner, since the revision petitioner has made a statement that she has sufficient evidence to prove the case that the present claim is not a *bona fide* one as the petitioner / defendant has already paid Rs.1,00,000/- along with interest to the respondent / plaintiff.

5.Under these circumstances, this Court is of the view that it would be appropriate to direct the trial Court to dispose of the applications in I.A.Nos.775 and 776 of 2018, within two months from the date of receipt of a copy of this order. In the meantime, there shall be an order of stay for all further proceedings in E.P.No.25 of 2018 in O.S.No.116 of 2014. It is made clear that if the applications are decided against the revision petitioner / defendant, the Execution Court can proceed to pass orders to execute the decree.

6.This Civil Revision Petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-III)

/TRUE COPY/

Sub Assistant Registrar

To

The Principal District Munsif, Sivagiri.

**Order made in
C.R.P (MD)No.1353 of 2019
12.09.2019**

rj2

JM/30.09.2019/2P/2C

<https://hcservices.ecourts.gov.in/hcservices/>