

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.07.2021

CORAM

THE HON'BLE Mr. JUSTICE G.K.ILANTHIRAIYAN

C.R.P.(PD) No.2070 of 2018

and

C.M.P.No.12373 of 2018

N.Ramasamy

... Petitioner

Vs

R.Veerassamy

... Respondent

Prayer :- Civil Revision Petitions are filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 18.12.2014 made in I.A.No.768 of 2014 in O.S.No.168 of 2011 on the file of Additional District Munsif, Namakkal.

For Petitioner : Mr.R.Vigneshkumar

For Respondent : Mr.S.Saravanakumar

ORDER

This Civil Revision Petition is filed against the fair and decreetal order dated 18.12.2014 made in I.A.No.768 of 2014 in O.S.No.168 of 2011 on the file of Additional District Munsif, Namakkal, thereby dismissing the petition to condone the delay in filing the petition to set aside the ex-parte decree.

2. The revision petitioner is the defendant and the respondent

is the plaintiff. The respondent filed a suit in O.S.No.168 of 2011 for recovery of money on the Promissory Note. On receipt of the suit summons, the petitioner engaged a counsel one Mr.G.Ravanan and he filed a vakalat. Thereafter, no written statement was filed and the petitioner was set ex-parte and ex-parte decree was passed on 22.09.2011.

3. On strength of the Judgment and Decree the respondent filed an Execution Petition in REP No.6 of 2012. In the Execution Petition, the petitioner was duly served notice and again he filed vakalat through the same counsel before the Execution Court. Thereafter, he failed to file any counter before the Execution Court. The Execution Court attached the salary of the petitioner. In fact, the report received from the Execution Court reveals that from August 2014 till July 2016, a sum of Rs.4,000/- per month was attached from the salary of the petitioner herein. Thereafter, the petitioner filed a petition to set aside the ex-parte decree with a delay of 975 days.

4. A perusal of the affidavit filed in support of the condone

delay petition reveals that he engaged a counsel one Mr.G.Ravanan and though he filed a vakalat and he did not inform the filing of the written statement and failed to inform about the ex-parte order passed as against the petitioner herein. In fact, even on receipt of the notice in the execution proceedings, the petitioner engaged the same counsel and filed vakalat before the Execution Court. He also failed to file any counter and he was set ex-parte which was also duly informed to the petitioner. Though, the petitioner made allegations as against the counsel who appeared on behalf of him before the Trial Court as well as the Execution Court, till today, the petitioner has not taken any action against the counsel and the petitioner did not appear before the Court below and failed to inform about the ex-parte decree order passed as against him. Therefore, the Court below rightly dismissed the petition to condone the delay in filing the petition to set aside the ex-parte decree. Though his salary was attached as early as on 18.12.2014, the petitioner did not approach this Court immediately and the present Civil Revision Petition is filed with the delay. However, the delay was condoned and the Civil Revision Petition was numbered only in the year 2018. Therefore, this Court finds no infirmity or illegality in the order passed by the Court

below. Accordingly, the Civil Revision Petition is dismissed.
Consequently, connected Miscellaneous Petition is closed. No order as
to costs.

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Index: Yes/No

Internet: Yes/No

Speaking Order: Yes/No

To

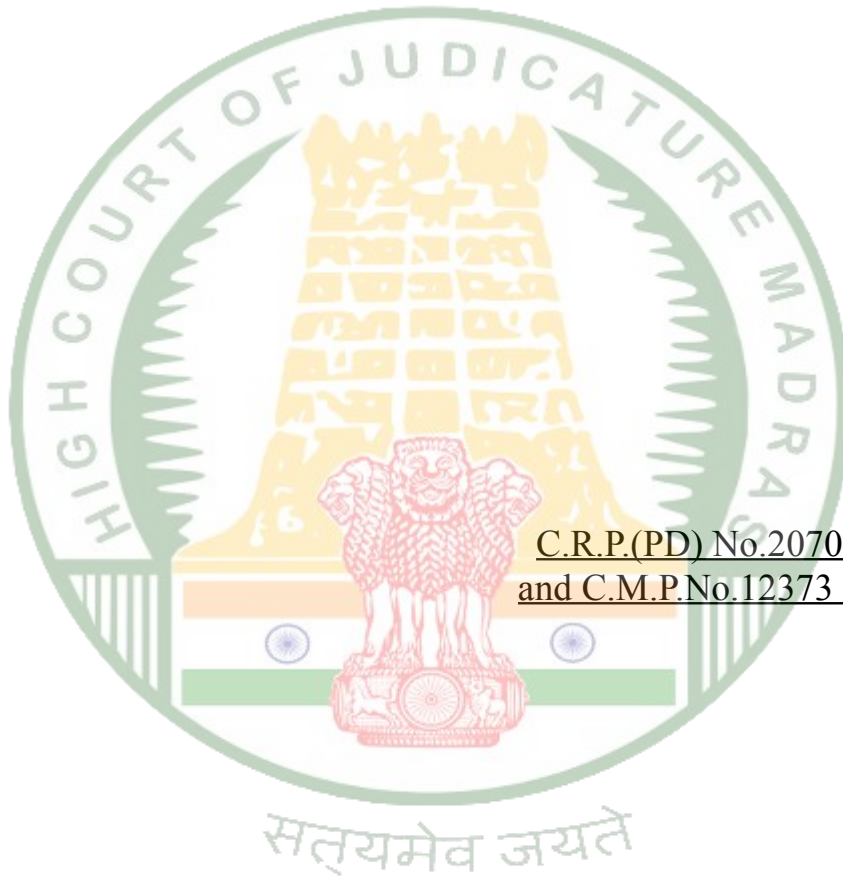
The Additional District Munsif,
Namakkal.



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G.K.ILANTHIRAIYAN,J.

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