

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.02.2021

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CRP.NPD.No.2404 of 2017

and

CMP.Nos.11317 and 11318 of 2017

Ramamoorthy

..Petitioner

Vs.

Anandha Padmanabhan

..Respondent

PRAYER: The Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure, praying to set aside the order and decretal order passed in I.A.No.70 of 2015 in O.S.No.106 of 2001, dated 20.04.2017, by the Additional Sub-Judge at Pondicherry.

For Petitioner : Mr.B.Baskaran

For Respondent : Mr.V.S.Senthil Kumar

ORDER

सत्यमेव जयते

This Civil Revision Petition is directed as against the order and decretal order passed in I.A.No.70 of 2015 in O.S.No.106 of 2001 dated 20.04.2017 on the file of the Additional Sub-Judge, Pondicherry, thereby, dismissing the petition to file condone the delay of 3 days in filing the application to set aside the ex-parte decree.

2. The respondent is the plaintiff. The petitioner is defendant. The respondent filed a suit for recovery of money, on the strength of the pro-note dated 29.04.1995 for a sum of Rs.51,600/- together with subsequent interest at the rate of 24% per annum. The suit summons were returned as no such addressee on two occasions. Thereafter, he was set ex-parte and ex-parte decree was passed on 18.10.2001. Thereafter, in the year 2013, the respondent filed an Execution Petition, in which notice was served on the petitioner in the same address. On receipt of the same, the petitioner came to understand about the ex-parte decree passed against him. The summons in the Execution Petition were served on the petitioner on 26.12.2014, whereas, the petitioner filed a petition to set aside the ex-parte decree only on 29.01.2015, that too, without any written statement in the main suit. The suit is of the year 2001 and the ex-parte decree was passed on 18.10.2001. After a period of 14 years, the petitioner filed the petition to set aside the ex-parte decree.

3. The learned counsel for the petitioner submitted that date of the pro-note was corrected by the respondent herein as 29.04.1995 instead of

20.04.1995 only to save the limitation to file a suit and that, in fact, the petitioner and the respondent are friends and utilizing the same, the respondent filed a false and frivolous suit as against the petitioner herein.

4. Admittedly, the petitioner received notice in the Execution Proceedings in the same address, whereas, the suit summons also were sent to the same address. However, the petitioner managed to return the postal cover with endorsement, "no such addressee". As such, it shows that the petitioner has knowledge about the suit and even according to the petitioner they are close friends. As such, the trial Court rightly dismissed the petition and this Court finds no irregularity or infirmity in the order passed by the Court below.

5. Accordingly, this Civil Revision Petition is dismissed. Consequently, the connected Miscellaneous Petitions are closed. No costs.

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Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

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G.K.ILANTHIRAIYAN,J.

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To

The Additional Sub-Judge, Pondicherry.



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