

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.07.2021

CORAM

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

C.R.P.(PD) No.4126 of 2018 and
CMP.No.22722 of 2018

Rajendiran

...

Petitioner

Vs

Vijayarangan

...

Respondent

Prayer :- Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and final order passed by the Subordinate Court, Tiruvannamalai dated 08.11.2016 made in IA.No.441 of 2012 in OS.No.127 of 2009.

For Petitioner : Mr.Jawahar B

For Respondent : Mr.R.Selvakumar

WEB COPY
ORDER

This Civil Revision Petition is filed against the fair and final order passed by the Subordinate Court, Tiruvannamalai dated 08.11.2016 made in

IA.No.441 of 2012 in OS.No.127 of 2009, thereby dismissing the petition to condone the delay in filing the petition to set aside the exparte decree.

2. The petitioner is the defendant and the respondent is the plaintiff. The respondent filed suit for specific performance on the strength of the agreement for sale dated 05.03.2008. On receipt of the suit summons, the petitioner failed to appear before the trial court and as such he was set exparte and exparte decree was passed on 19.08.2010. On the strength of the exparte decree, the respondent filed execution petition in EP.No.154 of 2010. The execution court executed sale deed in favour of the respondent in respect of the suit property on depositing the balance sale consideration. In fact, the petitioner was also set exparte in the execution petition since after receipt of the suit summons, he failed to appear before the execution court. When the respondent came to the suit property to take possession, the petitioner came to know about the suit proceedings and execution proceedings and immediately he engaged counsel and filed written statement, condone delay petition and set aside the exparte decree petition.

3. According to the petitioner, he never executed any agreement for sale in favour of the respondent herein. He borrowed loan for a sum of Rs.50,000/- from the respondent. While lending the said amount, the respondent insisted the plaintiff to execute agreement for sale in respect of the suit property. It is only dwelling house and it is a hut. The petitioner is very poor person and he is a cooli. Utilising the said circumstances, on the strength of the sale agreement, the respondent filed suit and obtained exparte decree.

4. However, the learned counsel for the petitioner would submit that the petitioner is ready and willing to deposit the entire sale consideration with registration charges.

5. Considering the above submission, this civil revision petition is allowed and the order passed by the Subordinate Court, Tiruvannamalai dated 08.11.2016 made in IA.No.441 of 2012 in OS.No.127 of 2009 is set aside on condition that the petitioner shall deposit a sum of Rs.1,25,000/- (One Lakh and Twenty Five Thousand only) to the credit of the suit in

OS.No.127 of 2009, within a period of four weeks from the date of receipt of copy of this order, failing which the order passed by this Court shall stand automatically cancelled. On such deposit, the court below is directed to restore the suit and dispose of the same on merits and in accordance with law within a period of three months thereafter. Consequently, connected miscellaneous petition is closed. No order as to costs.

15.07.2021

lok

Index: Yes/No

Internet: Yes/No

Speaking Order: Yes/No



WEB COPY



WEB COPY

G.K.ILANTHIRAIYAN,J.

lok

To

The Subordinate Judge,
Tiruvannamalai



C.R.P.(PD) No.4126 of 2018

WEB COPY

15.07.2021