



C.R.P.NPD.No.370 of 2022

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 22.06.2022**

**CORAM :**

**THE HONOURABLE MS. JUSTICE R.N.MANJULA**

**C.R.P.(NPD).No.370 of 2022**  
**and C.M.P.No.1921 of 2022**

M.Palanisamy

... Petitioner

..Vs..

P.Krishnamoorthy

... Respondent

Prayer:- Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decretal order dated 06.12.2021 made in I.A.No.2 of 2021 in O.S.No.284 of 2017 on the file of the learned Principal Subordinate Judge, Ariyalur.

For Petitioner : Mr.C.Prabakaran

For Respondent : Mr.S.Kamadevan

**ORDER**

This Civil Revision Petition has been preferred challenging the order of the learned Principal Subordinate Judge, Ariyalur, dated 06.12.2021 made in I.A.No.2 of 2021 in O.S.No.284 of 2017.



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2.The revision petitioner is the defendant in the suit. The respondent/plaintiff has filed the suit for specific performance and the same was decreed ex-parte. After a delay of 738 days, the petition was filed to condone the delay in filing petition to set aside the ex-parte decree and the same was dismissed. Aggrieved over that, the petitioner has preferred this revision.

3.The learned counsel for the petitioner submitted that due to Pandemic situation, the matter cannot be pursued properly and that caused the delay in filling the petition to set aside the ex-parte decree.

4.However, the affidavit filed in support of the petition only shows that the petitioner was suffering from Jaundice and that is why the petition to set aside the ex-parte decree could not be filed in time. The delay at every stage including the delay in representing the petition to condone the delay ought to have been satisfactorily explained. But the



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reasons stated by the petitioner is not satisfactory. Though the conduct of the defendant reveals his delay making tactics, in the interest of justice, I feel an opportunity can be given to get the suit disposed on merits, provided the petitioner pays cost.

5.It is also to be noted that in the execution proceedings taken by the respondent/plaintiff, the sale deed has been drafted and fair sale deed has already been filed and the stamp duty suffered by the respondent/plaintiff. Under such circumstances, I feel that this petition can be allowed only if the petitioner pays the stamp duty expenses also along with the costs of the execution proceedings and costs for this petition.

7.Consequently, the Civil Revision Petition is allowed on payment of Rs.15,000/- along with Stamp duty expenses and cost of the Execution Proceedings, within a period of two weeks from the date of receipt of a copy of this order. The order of the learned Principal Subordinate Judge,



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Ariyalur, dated 06.12.2021 made in I.A.No.2 of 2021 in O.S.No.284 of 2017, is hereby set aside. Consequently, connected Miscellaneous Petition is also closed.

**22.06.2022**

vkr

Index:Yes No

Speaking Order:Yes/No

To

- 1.The Principal Sub Judge, Ariyalur.
- 2.The Section Officer,  
VR Section, Madras High Court,  
Chennai.



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**R.N.MANJULA,J.**

Vkr

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**22.06.2022**