



C.R.P.(NPD) No.1042 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.06.2022

CORAM

THE HONOURABLE Ms. JUSTICE R.N.MANJULA

C.R.P.(NPD).No.1042 of 2022

Thungapathra

... Petitioner

Vs.

Kesavalu

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the Fair and Final orders dated 20.11.2021 passed in E.A.No.24 of 2020 in O.S.No.95 of 2007 on the file of the Principal District Munsif Court, Kallakurichi.

For Petitioner : Mr.R.Nalliyappan

ORDER

This Civil Revision Petition has been filed challenging the order of the learned Principal District Munsif, Kallakurichi dated 20.11.2021 in E.A.No.24 of 2020 in O.S.No.95 of 2007.

2.The petitioner is the decree holder in O.S.No.95 of 2007, which has been filed for the relief of specific performance. Despite she had obtained a



decree for specific performance on 16.04.2007, no steps have been taken to get the decree executed by way of paying the balance sale consideration.

3.It is submitted by the learned counsel for the petitioner that the execution petition was filed on 01.08.2007 and it was returned for rectifying certain defects on 24.08.2007 and the same was not re-presented and due to the lapse on the part of the counsel, the delay of 4575 days had occurred in re-presenting the execution petition.

4.From the materials available on record, it is seen that the original plaintiff himself died in the year 2019. In the suit for specific performance, the readiness and willingness is the main criteria, which has to be considered. Despite getting the decree and knowing that there will be a time limit to perform the obligation of paying the balance consideration, the decree holder did not care. In these kinds of matters, the inordinate and huge delay of 4575 days cannot be condoned by simply stating that the lapse was on the part of the counsel.

5.The learned trial Judge had clearly observed that the facts were not proved before the Court. Under such circumstances, the reasoning given by the learned trial Judge in dismissing the petition, are sound and fitting.



C.R.P.(NPD) No.1042 of 2021

6.I do not find any ground for interference of the order passed by the learned Principal District Munsif, Kallakurichi.

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7.Accordingly, the Civil Revision Petition is dismissed and the fair and decreetal order dated 20.11.2021 passed in E.A.No.24 of 2020 in O.S.No.95 of 2007 on the file of the Principal District Munsif Court, Kallakurichi is hereby confirmed. No Costs.

06.06.2022

Index : Yes/No
Speaking Order : Yes / No
vkr

To

- 1.The Principal District Munsif,
Kallakurichi.
- 2.The Section Officer,
VR Section, Madras High Court,
Chennai.



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C.R.P.(NPD) No.1042 of 2022

R.N.MANJULA, J.,

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