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C.R.P.(NPD) No.1316/20__

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **08.06.2022**

CORAM

THE HONOURABLE Ms. JUSTICE R.N.MANJULA

C.R.P.(NPD)No. 1316 of 2022

and

CMP.No.6952 of 2022

P.Sundari

...

Revision Petitioner

Vs.

Alamelu

...

Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order dated 02.12.2021 in R.E.A.No.1 of 2021 in R.E.P.No.101 of 2015 in OS.No.318 of 2005 on the file of I Additional Subordinate Judge, Salem.

For Petitioner : Mr.M.Mohamid Riyaz

ORDER

The Civil Revision Petition has been preferred challenging the judgement of the learned I Additional Subordinate Judge, Salem dated 02.12.2021 in R.E.A.No.1 of 2021 in R.E.P.No.101 of 2015 in OS.No.318



of 2005.

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2. The revision petitioner is the Judgement Dedtor in the decree passed in OS.No.318 of 2005 and the respondent, the decree holder, filed an execution proceedings in R.E.P.No.101 of 2015 to execute the decree passed in her favour. Since the petitioner remained exparte in the execution proceedings, an ex parte order was passed on 05.02.2016. Thereafter, the petitioner filed R.E.A.No.1/2021 for setting aside the exparte order. The learned Executing Judge dismissed the petition on the ground that there is an inordinate delay of 4 years in filing this petition for reasons not acceptable to the Court.

3. The learned counsel for the petitioner submitted that the decree passed in OS.No.318 of 2005 was being challenged by the second defendant of the suit, by way of preferring a Second Appeal and the same is pending.

4. Despite this petitioner had chosen to set aside the exparte order in the execution petition, she has not chosen to prefer any appeal. Under such circumstances the decree passed by the trial Court as against this



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Revision petitioner is still in force.

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5. The consequence of the execution proceedings would depend upon the outcome of the Second Appeal. Under such circumstances, it is not necessary to set aside the ex parte order passed in R.E.P.No.101 of 2015 dated 05.02.2016. Hence I find no reason for interference. Therefore this Civil Revision Petition stands dismissed. Consequently connected Civil Miscellaneous Petition is also closed. No costs.

08.06.2022

Index : Yes/No
Speaking Order : Yes / No
jrs



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R.N.MANJULA, J.,

jrs

- To
1. The I Additional Subordinate Judge,
Salem.
 2. The Section Officer,
VR Section, Madras High Court,
Chennai.

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