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CRP.No.1295 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

CRP.No.1295 of 2019

R.Parthasarathy

... Petitioner

Vs.

1.S.Mary Jaculin

2.V.Soniya Mary

3.J.Gnana Soundari

... Respondents

PRAYER:

Civil Revision petition is filed under Article 227 of the Constitution of India to allow the civil revision petition and to set aside the fair and decretal order passed in EA.No.15 of 2017 in EP.No.25 of 2015 in OS.No.148 of 2010 by the Subordinate Court, Tiruallur dated 20.09.2018.

For Petitioner : Mr.A.Palaniappan

For Respondents

For R1 : No appearance

For R2 & 3 : Mr.A.Prakash



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ORDER

This civil revision petition has been filed to set aside the fair and decretal order passed in EA.No.15 of 2017 in EP.No.25 of 2015 in OS.No.148 of 2010 by the Subordinate Court, Tiruallur dated 20.09.2018, thereby granted stay in the petition filed to condone the delay in filing the petition to set aside the order passed in EP and set aside petition.

2. The petitioner is the plaintiff and the respondents are the defendants in the suit for specific performance. The said suit was decreed in favour of the petitioner. In pursuant to the decree, the petitioner filed execution petition in EP.No.15 of 2012 for execution of sale deed. The said EP was ordered, in which the respondents were set exparte. Accordingly, the sale deed was executed in favour of the petitioner and registered on 29.04.2015. Thereafter, the petitioner again filed EP.No.25 of 2015 for recovery of possession in respect of the suit property. After receipt of the notice in the said execution petition, the respondents failed to appear before the execution court and as such they were set exparte on 24.02.2017. When the execution petition was about to be ordered, the respondents filed petition to set aside the exparte order along with the condone delay petition to condone the delay of 27 days in EA.No.14 of 2017. The said EA.No.14 of 2017 was allowed and numbered the EA.No.15 of 2017 to set aside the exparte



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order, in which the Execution Court ordered stay of the main execution proceedings. Aggrieved by the same, the present civil revision petition has been filed.

3. The learned counsel for the petitioner would submit that in the petition to set aside the exparte order, the court below granted stay of execution petition.

4. Heard, the learned counsel for the petitioner and the learned counsel for respondents 2 & 3.

5. It is seen that till the disposal of the set aside petition, the Execution Court stayed all further proceedings in EP.No.25 of 2015. If the present civil revision petition is not filed, the set aside petition would have been disposed of long back. Only because of the pendency of this civil revision petition, the Execution Court could not able to dispose of the set aside petition. In view of the above, this Court finds no infirmity or illegality in the order passed by the court below.



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6. Accordingly, this Civil Revision Petition is dismissed. However, the

Execution Court is directed to dispose of the set aside petition within a period of two weeks from the date of receipt of copy of this order. Further, the Execution Court is directed to pass orders in the main execution petition on merits and in accordance with law within a period of two weeks thereafter. There shall be no order as to costs.

20.12.2022

Index :Yes/No

Internet : Yes/No

Speaking order/non-speaking order
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G.K.ILANTHIRAIYAN, J.

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To
The Subordinate Court,
Tiruallur

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