



C.R.P(PD).No.2034 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.08.2022

CORAM :

THE HONOURABLE MS. JUSTICE R.N.MANJULA

C.R.P(PD).No.2034 of 2022

and

C.M.P.No.10435 of 2022

Pushpammal

... Petitioner

Vs

S.Pawankumar

... Respondent

Prayer:- Petition is filed under Article 227 of the Constitution of India, pleaded to set aside the Docket Order dated 20.11.2011 passed in I.A.No.1 of 2021 in O.S.No.73 of 2006 on the file of the Additional District Judge (Fast Track Court No.II), Poonamallee.

For Petitioner : Mr.B.Ebenezer

For Respondent : Mr.R.Sivaraman

ORDER

This Civil Revision Petition has been preferred to challenge the Docket Order dated 20.11.2011 passed in I.A.No.1 of 2021 in O.S.No.73 of 2006 by the learned Additional District Judge (Fast Track Court No.II), Poonamallee.



2. Heard the learned counsel for the petitioner and the learned counsel for the respondent and also perused the materials available on record.

3.1 The revision petitioner is the defendant, against whom, the respondent/plaintiff has filed a suit in O.S.No.73 of 2006 for specific performance and the said suit was decreed as prayed for on 09.02.2010. Challenging the said decretal order, the defendant has preferred an appeal in A.S.No.612 of 2011 before this Court and the same was dismissed on 03.04.2017. Subsequently, the respondent/plaintiff filed a petition in C.M.P.No.5385 of 2020 in A.S.No.612 of 2011 before this Court seeking extension of time to deposit an additional sum of Rs.7,00,000/- as ordered already on 03.04.2017. The said miscellaneous petition was allowed on 22.10.2021. The operative portion of the said order reads as under:

“ 5. The petitioner only seeks to grant extension of time to comply with the said order for the reasons stated above. Hence, considering the reasons stated by the petitioner and the facts and circumstances of the case and the observations made in the earlier order dated 03.04.2017, this Court is inclined to allow this petition, however, on payment of interest. Accordingly, this petition is allowed and two weeks time from the date of receipt of a copy of this order is granted to the petitioner to deposit the additional sum of Rs.7,00,000/- (Rupees Seven Lakhs only) on condition that the petitioner shall also deposit interest at the rate of 12% per annum on the



C.R.P(PD).No.2034 of 2022

said sum of Rs.7,00,000/- from the date of the order i.e from 03.04.2017 till the date of deposit of the said additional sum, failing which, this petition shall automatically stand dismissed, without any further reference to this Court.

6. In the result, this petition is allowed.”

3.2 Thereafter, the respondent/plaintiff filed an interlocutory application in I.A.No.1 of 2021 in O.S.No.73 of 2006 seeking permission to deposit the additional amount to the credit of the above suit and the same was allowed. Aggrieved over the same, the petitioner/defendant has preferred the present revision petition.

4. The contention of the learned counsel for the revision petitioner is that the web copy of the order was available even before the certified copy was obtained by the respondent and hence, time for payment of two weeks has been counted from the availability of the web copy. The revision petitioner drawn the attention of this Court to the averments made in the affidavit filed in support of the interlocutory application, wherein it is stated that the petition is filed in order to avoid further delay in making payment. Since the web copy was available much earlier and the amount was not deposited within two weeks from the date of availability of the



C.R.P(PD).No.2034 of 2022

web copy, the learned Additional District Judge (Fast Track Court No.II), Poonamallee ought not to have received the amount and hence, the order should be set aside.

5. The learned counsel for the respondent submitted that the certified copy was obtained only on 18.11.2021 and the amount was deposited on 23.11.2021 which is well within two weeks time granted from the date of receipt of the copy of the order. The fact of deposit of the amount on 23.11.2021 was not disputed by the revision petitioner as well but the only contention is that the availability of the web copy is prior to 18.11.2022.

6. No doubt, the orders obtained from the official web site can be considered as an authenticated copy, until the official certified copy is made ready. But one fact which cannot be got from the production of the web copy is when the petitioner had access to the website and on which date he had downloaded it. Hence, the authenticity about the date can be drawn only from the date on which the certified copy was furnished. It is true that the respondent has filed an affidavit about the perusal of the order seen in the official web site. Even if that date is taken



C.R.P(PD).No.2034 of 2022

into account, the payment is made well within two weeks, because the affidavit seem to have been presented before the Court on 12.11.2021.

7. It is further submitted that in paragraph no.6 of the affidavit filed in support of the interlocutory application, the respondent has averred that he had enclosed a copy of the Demand Draft for a sum of Rs.11,00,000/- and sent it to the petitioner and it was refused. So, the above initiative taken by the respondent also would only show that he has made every endeavor to comply the order well within time.

8. Had the petitioner received the said Demand Draft, the presumption would have been that the respondent did not even wait for two weeks from the date of getting the certified copy and was prompt in complying the order even before the copy was given to him. That would only mean that the payment was made well ahead of the time given to him and that would also amount to compliance. Since payment has been made within two weeks from the date of receipt of the copy of the order and the same was rightly accepted by the learned trial Judge. I find no reason for interference.



C.R.P(PD).No.2034 of 2022

9. In view of the above, this Civil Revision Petition is dismissed and the order dated 20.11.2021 passed in I.A.No.1 of 2021 in O.S.No.73 of 2006 by the learned Additional District Judge (Fast Track Court No.II), Poonamallee is confirmed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

12.08.2022

ms

Index : Yes/No

Internet : Yes/No

Speaking Order/Non-Speaking Order

To

The Additional District Judge
(Fast Track Court No.II),
Poonamallee.



WEB COPY



C.R.P(PD).No.2034 of 2022

R.N.MANJULA, J.

ms

**C.R.P(PD).No.2034 of 2022
and
C.M.P.No.10435 of 2022**

12.08.2022