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2. The revision petitioner is the second defendant in the suit; the suit was filed by the respondent / plaintiff for specific performance against the revision petitioner and his mother and the suit was decreed *ex parte* on 27.08.2009; the revision petitioner has filed a petition in I.A.No.17 of 2018 to condone the delay of 2988 days in filing the petition to set aside the *ex parte* decree and the said petition was dismissed. Aggrieved over that, the petitioner has filed the present Civil Revision Petition.

3. The learned Senior Counsel for the petitioner submitted that no suit summons were served on the revision petitioner and his mother, who was the first defendant in the suit died on 16.09.2015. Since the revision petitioner did not have the knowledge about the decree passed in the suit, he could not file the petition immediately. The value of the suit property was said to have been agreed for a meagre amount of Rs.2,00,000/- and hence, the sale agreement itself cannot be true. Since the revision petitioner has got valid grounds of defense he should be given an opportunity by way of condoning the delay and to participate in the suit proceedings by enabling



the Court to take up the petition to set aside the
well.

ex parte decree as

4. The records would show that the suit was filed in the year 2008 for the relief of specific performance. It is the specific contention of the respondent that even before the suit was filed, pre-suit notice was issued to both the revision petitioner and his mother, the first defendant. Despite the suit was decreed in the year 2009, the execution petition has been filed in the year 2014 only.

5. The contention of the revision petitioner is that he came to know about the *ex parte* decree only after he received the notice in the execution proceedings. He further submitted that when he enquired about the execution proceedings, his mother who was alive then assured him that she would conduct the case for herself and on behalf of the revision petitioner. Subsequently, his mother died on 16.09.2015.



6. Even according to the contention of the revision petitioner, he was aware of the *ex parte* decree in the year 2014 itself and he also believed that his mother was conducting the proceedings. Even though his mother died in the year 2015, he did not take steps to enquire the further proceedings in the execution petition. It is submitted that a Government Aided Primary School was being run in the suit property and if the property is ordered to be delivered immediately that would affect the interest of the students who are studying there.

7. It is reliably learnt that the learned trial Judge had given reasonable time and postponed the delivery to 27.09.2022. The learned Senior Counsel for the revision petitioner submitted that if an opportunity is granted, the parties can work out their settlement out of Court in order to retain the property for the purpose of running the School therein.

8. Since much water has flown under the bridge, the Courts cannot ensure for any such possibility. However, it is open to the revision petitioner and the respondent to work out the possibilities for settlement. In the event of such possibilities are done, the parties are at liberty to request



the learned Executing Judge himself to adjourn the matter to a future date from 27.09.2022. But in the event of failure to arrive at any settlement, the Executing Court cannot restrain himself from passing any further orders.

9. With the above observations, this Civil Revision Petition is disposed. Consequently, connected Miscellaneous Petition is closed. No costs.

16.08.2022

Speaking order / Non-speaking order

Index : Yes / No

Internet : Yes

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To

The Subordinate Judge, Dharapuram.



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C.R.P. (PD) No.2601 of 2022
and C.M.P.No.13375 of 2022



R.N.MANJULA, J.

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16.08.2022