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CRP.Nos.3786 & 3788 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.Nos.3786 & 3788 of 2022

and

CMP No.199454 of 2022

1.Hanumanth Raj
2.H.Gomathy

... Petitioners in both CRPs

Vs.

A.Vadivel
CRPs

...Respondent in both

Common Prayer: Civil Revision Petitions are filed under Article 227 of the Constitution of India, to set aside the order of return of E.A. CFR.Nos.19414 & 19415 of 2022 respectively in E.P.No.7 of 2017 in O.S.No.2019 of 2010 dated 12.08.2022 on the file of the learned Principal District Munsif, Coimbatore.



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For Petitioners in
both CRPs. : Mr.P.K.Shiva Kumar

COMMON ORDER

These Civil Revision Petitions are filed, challenging the order of return dated 12.08.2022 returning the execution application in CRFR.Nos.19414 & 19415 of 2022 in E.P.No.7 of 2017.

2. Having regard to the limited prayer made in these revisions, this Court is inclined to dispose of the revisions, even without notice to the respondent.

3. The petitioners herein are the judgment debtors and suffered a decree for mandatory injunction in O.S.No.2019 of 2010 on the file of the learned Principal District Munsif, Coimbatore.

4. The respondent herein filed an execution petition in E.P.No.7 of 2017 for removal of obstruction as per the decree. The petitioners herein were set exparte on 29.06.2018. Thereafter, the petitioners filed E.A.Nos.1 & 2 of 2019 seeking to set aside the exparte order passed against them after



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condoning the delay of 63 days in filing the petition.

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5. Both E.A.Nos.1 & 2 of 2019 were allowed on payment of cost of Rs.1,000/- each on 05.01.2022. The petitioners herein failed to comply with the said conditional order and consequently E.A.Nos.1 & 2 of 2022 appeared to have been dismissed. The petitioners herein filed the instant applications in E.A.CFR.Nos.19414 & 19415 of 2022 seeking extension of time for payment of cost as ordered in E.A.No.2 of 2019. The said applications were returned by the Court below on the ground that the instant applications were not maintainable as E.A.No.2 of 2019 was allowed on 08.12.2021. The petitioners herein re-presented the papers mentioning certain reasons for failing to comply with the order. The Court below again returned the application on 12.08.2022 and the said order of return is challenged in this application.

6. When the petitioners re-presented the application seeking extension of time for payment of cost giving some reason for their failure to comply with the Court orders, the Executing Court ought to have numbered the application and disposed the same in accordance with law.



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7. Merely because, the time limit for payment of cost got expired, the Court cannot dismiss the application for extension of time. Therefore, the Executing Court is directed to number the said application, if it is re-presented by the petitioners within two weeks from the date of receipt of a copy of this order and dispose of the same in accordance with law without being influenced by any of the observation made in this case.

8. With the above direction, these Civil Revision Petitions are disposed of. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

22.11.2022

Index : Yes / No

Internet : Yes / No

dna

Note: Issue order copy on 28.11.2022

Registry is directed to return the original petition filed in E.A.CFR.Nos.19414 & 19415/2022 to the learned counsel for the petitioners.



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To

The Principal District Munsif Court, Coimbatore.



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S.SOUNTHAR, J.

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