



C.R.P(NPD)No.3099 of 2021
and CMP.No.21811 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P(NPD)No.3099 of 2021

and

CMP.No.21811 of 2021

Sathish @ Sathishkumar

..Petitioner

Vs.

1.K.Deepa Devi

2.K.Ratna Devi

..Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order passed in EA.No.33 of 2019 in EP.NO.8 of 2018 dated 08.11.2021 pending on the file of the learned District Munsif-cum-Judicial Magistrate Court, Vazhapadi.

For Petitioner : Mr.N.Umapathi

ORDER

Challenge in this revision is to the order of the Trial Court, dismissing an application filed by the petitioner under Order 21 Rule 106 of



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CPC., seeking to set aside the exparte order of delivery made in EP.No.8 of 2019.

2.The petitioner would claim that no notice was served on him in the Execution Petition and he came to know about the exparte order, directing delivery of possession only on 25.09.2019 and within 30 days from the date of knowledge of the order, he had filed the application seeking to set aside the exparte order. The exparte order was passed on 09.07.2018, after recording the fact that the petitioner had refused to receive notice in the execution petition. It is the specific plea of the petitioner that he came to know about the exparte order of delivery only on 25.09.2019 from his neighbours.

3.If a person choses to claim knowledge of the order on a particular date and seeks to file an application to set aside the said order within 30 days from the date of knowledge, essential evidence has to be let in on that factual aspect. It is seen that the petitioner has not let in any evidence and the learned Trial Judge has rejected his application on the ground that it is barred by limitation.



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4.Mr.N.Umapathi, learned counsel appearing for the petitioner would contend that the very order in the RCOP is without jurisdiction and therefore, it cannot be executed. I do not think, I can go into the merits of the claims made in the execution proceedings. Admittedly, the petitioner filed the application within 30 days from the date of knowledge of the exparte order, relying upon a particular date as a date of knowledge, when no evidence to show that the petitioner had knowledge of the exparte order only on the date mentioned by him, the Trial Court is perfectly justified in dismissing the application. I do not see any reason to interfere with the order exercising the supervisory powers. This civil revision petition therefore, fails and it is accordingly, dismissed. No costs. Consequently, connected miscellaneous petition is closed.

10.01.2022

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R.SUBRAMANIAN, J.

KKN

To-

The District Munsif-cum-Judicial Magistrate Court,
Vazhapadi.

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