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C.R.P.(NPD) No.2788 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.07.2022

C O R A M:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P.(NPD) No.2788 of 2019
and C.M.P.No.18263 of 2019

P.Dhanapal

... Petitioner

Vs.

A.Gunasekaran

... Respondent

PRAYER: Civil Revision Petition filed under Section 115 of Code of Civil Procedure, to set aside the order passed in I.A.No.268 of 2018 in O.S.No.227 of 2012 on the file of the II Additional Subordinate Judge, Salem dated 07.08.2018.

For Petitioner : Mr.S.Suresh Kumar

For Respondent : Mr.R.Subramanian

ORDER

This civil revision petition is filed by the revision petitioner/petitioner/2nd defendant in I.A.No.268 of 2018 in O.S.No.227 of 2012.



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2.The suit in O.S.No.227 of 2012 which was filed for specific performance was decreed exparte on 30.04.2014 in favour of the plaintiff. After the decree, the plaintiff filed REP.No.195 of 2015 praying for execution of sale deed in respect of the petition mentioned property.

3.At that point of time, the revision petitioner/2nd defendant filed application to set aside the exparte decree dated 30.04.2014 and it was returned and again resubmitted. As such, I.A.No.268 of 2018 was filed to condone the delay in representation.

4.The learned Judge found that Execution Petition in REP.No.195 of 2015 has been filed for getting execution of sale deed and the petitioner remained exparte. Even for the draft sale deed execution the petitioner remained watching the proceedings and represented the I.A. without raising objection for execution of sale deed.

5.The learned Judge also held that service of notice and orders passed in Execution Petition are not denied by the petitioner. The petitioner taken



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advantage of the court and did not specify the time limit for resubmitting the

I.A. The petitioner was not interested in representing the application to set aside the exparte decree and there is no bonafide on the part of the petitioner.

6.The learned Judge, following the principle of law held that the inherent power provided under Section 151 CPC can be exercised for ends of justice or to prevent abuse of process of court. On such findings, the learned Judge dismissed the IA.

7.Heard both sides and perused the records.

8.This court do not find any infirmity in the order passed by the learned Judge. The revision petitioner/2nd defendant kept the I.A. pending for more than 2 years and 9 months and represented the said I.A., and sought condonation of delay after execution of the draft sale deed, which shows that the said I.A., has been filed only with an intention to drag on the



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execution proceedings. The revision petition lacks merits. Accordingly, this

Civil Revision Petition is dismissed. No costs. Consequently connected

miscellaneous petition is closed.

21.07.2022

msv/nvsri

To:

The II Additional Subordinate Judge,
Salem.



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J.NISHA BANU, J.
msv/nvsri

Order made in
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