



CRP(NPD)(MD)Nos.1842 and 1843 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 09.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

CRP(NPD)(MD)Nos.1842 and 1843 of 2021

and

CMP(MD)No.9882 of 2021

CRP(NPD)(MD)No.1842 of 2021

Kalaiyarasi

... Petitioner

versus

Parameswari

... Respondent

Civil Revision Petition filed under Section 115 of Civil Procedure Code, against the order dated 25.10.2021 made in I.A.No.9 of 2020 in O.S.No.116 of 2018 on the file of the learned III Additional District Judge, Thanjavur at Pattukkottai.

For Petitioner : Mr.S.Krishnan

For Respondent : Mr.K.Guhan



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Kalaiyarasi

... Petitioner

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Civil Revision Petition filed under Section 115 of Civil Procedure Code, against the order dated 25.10.2021 made in I.A.No.10 of 2020 in O.S.No.116 of 2018 on the file of the learned III Additional District Judge, Thanjavur at Pattukkottai.

For Petitioner : Mr.S.Krishnan

For Respondent : Mr.K.Guhan

COMMON ORDER

These Civil Revision Petitions have been filed against the orders dated 25.10.2021 passed in I.A.Nos.9 and 10 of 2020 in O.S.No.116 of 2018 on the file of the learned III Additional District Judge, Thanjavur at Pattukkottai.



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2. The petitioner herein is the first defendant in O.S.No.116 of 2018 on the file of the learned III Additional District Judge, Thanavur at Pattukkottai. The respondent/plaintiff has filed the above suit for recovery of money against the petitioner and two others on the basis of sale agreement dated 29.07.2011. The petitioner/first defendant entered appearance and also filed her written statement, however, failed to cross examine P.W.1, when the case was posted for cross examination of P.W.1 and therefore, she was set *ex parte* and *ex parte* order was passed on on 04.02.2020. Thereafter, the petitioner/first defendant filed an interlocutory application in I.A.No.9 of 2020 under Order IX Rule 7 C.P.C. to set aside the *ex parte* order dated 04.02.2020 and also filed another application in I.A.No.10 of 2020 under Order VII Rule 11(d) C.P.C. to strike off the plaint on the ground that it is barred by limitation. The trial Court, by order dated 25.10.2021, allowed the application in I.A.No.9 of 2020 on payment of cost of Rs.7,00,000/- payable to the respondent/plaintiff. But, the trial Court, by order dated



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25.10.2021, dismissed the application filed by the petitioner in I.A.No.10 of 2020 on the ground that as the limitation period is 12 years, the present application filed on the ground of limitation cannot be maintained. Aggrieved over the same, the present Civil Revision Petitions have been filed.

3. The learned counsel appearing for the petitioner submits that since the limitation aspect would not arise in the above suit, the petitioner is not pressing CRP(NPD)(MD)No.1843 of 2021. However, the petitioner is having grievance with regard to the order passed in I.A.No.9 of 2020 directing the petitioner/first defendant to pay the entire advance amount of Rs.7,00,000/- which is also in dispute in the main suit.

4. The learned counsel for the respondent submits that the above suit was filed for recovery of money of Rs.12,71,667/- (i.e.advance amount of Rs.7,00,000/- along with interest at the rate of 12%).

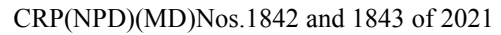


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Therefore, the trial Court, while allowing the application filed to set aside the *ex parte* order, passed the above order directing the petitioner/first defendant to pay the admitted advance amount of Rs.7,00,000/-, which has been received by the petitioner.

5. This Court considered the rival submissions made and perused the materials available on record.

6. The respondent/plaintiff filed the above suit in O.S.No.116 of 2018 for recovery of a sum of Rs.12,71,667/- (i.e.advance amount of Rs.7,00,000/- along with interest at the rate of 12%). In the suit, the petitioner/first defendant had entered appearance and also filed her written statement. However, when the suit was posted for trial, she failed to cross examine P.W.1 and therefore, she was set *ex parte* and *ex parte* order was passed on 04.02.2020. Therefore, she filed I.A.No. 10 of 2020 in O.S.No.116 of 2018 to set aside the *ex parte* order passed on 04.02.2020. The trial Court, while allowing the said application,



7. Accordingly, CRP(NPD)(MD)No.1842 of 2021 is allowed by
g aside the order dated 25.10.2021 made in I.A.No.9 of 2020 in
No.116 of 2018 on the file of the learned III Additional District
e, Thanjavur at Pattukkottai, insofar as the payment of cost of
00,000/- is concerned. The trial Court, namely, the learned III
Additional District Judge, Thanjavur at Pattukkottai, shall conclude the
and dispose of the suit as expeditiously as possible. The parties
co-operate with the Trial Court for speedy trial.



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8. Since the petitioner is not pressing CRP(NPD)(MD)No.1843 of 2021, it is dismissed as not pressed. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No.

Internet : Yes / No.

To

1. The III Additional District Judge,
Thanjavur at Pattukkottai.



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B.PUGALENDHI, J.

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