



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.01.2022

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THE HONOURABLE MS.JUSTICE P.T.ASHA

C.R.P (MD)No.2084 of 2021 &
CMP (MD)No.11094 of 2021

K.Vinoth Kumar

... Petitioner/Petitioner/Plaintiff
Vs.

1.A.Thavamani

2.T.Jeyamani

3.T.Latcha Prabu

4.T.Priyam

... Respondents/Respondents/Defendants

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and executable order dated 08.12.2021 in I.A.No.330 of 2021 in O.S.No.259 of 2018 on the file of the Subordinate Judge, Uthamapalayam and allow the civil revision petition.

For Petitioner : Mr.K.Sekar
For Respondents : Mr.D.Nallathambi

ORDER

The plaintiff whose application seeking extension of time to deposit the balance amount of the sale consideration was dismissed, is the revision petitioner before this Court.

2. The facts in brief are as follows.

2.1. The revision petitioner as plaintiff had filed a suit for specific performance. The defendants had entered appearance and filed written statement. It appears that the plaintiff has presented the plaint on 19.11.2018 and the case was taken on file on 12.12.2018 along with the lodgment schedule filed by the plaintiff for depositing the balance sale consideration of Rs.25,000/-. The Court on the same date has issued chalan. However, the plaintiff had not taken steps to deposit the chalan. The application to deposit the chalan was filed only on 30.04.2021 nearly 2 and 1/2 years after the order. Therefore, the plaintiff had filed an application for extending the time for making the deposit.



2.2. It is the case of the petitioner/plaintiff that since there was no order in A diary with reference to the deposit of the balance sale amount, he had not taken steps in this regard. The said application was resisted by the defendants contending that the failure to deposit the amount would itself show the lack of readiness and willingness on the side of the plaintiff and therefore, the application seeking extension of time should be dismissed. The learned Subordinate Judge, Uthamapalayam proceeded to dismiss the said application by order dated 08.12.2021, against which, the present revision has been filed.

3. Heard the learned counsels on either side.

4. From the records, it appears that the plaintiff had voluntarily filed an lodgment schedule along with the plaint, which was ordered on the very same day. However, the plaintiff was not informed about the chalan being issued and therefore, he had not taken steps to deposit the balance amount, which was only a sum of Rs.25,000/-. Further, the suit is still pending disposal and even before the disposal, the plaintiff has taken steps to extend the time for depositing the amount. The plaintiff has demonstrated his readiness even on the date of the filing of the plaint by filing the lodgment schedule. In these circumstances, the learned Judge ought to have allowed the petition instead of dismissing it.

5. Therefore, the civil revision petition is allowed and the order dated 08.12.2021 in I.A.No.330 of 2021 in O.S.No.259 of 2018 on the file of the Subordinate Court, Uthamapalayam is set aside. No costs. Consequently, the connected miscellaneous petition is closed.

6. The plaintiff is granted two weeks time from the date of receipt of a copy of this order to deposit the sum of Rs.25,000 to the credit of O.S.No.259 of 2018 on the file of the Subordinate Court, Uthamapalayam.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

The Subordinate Judge,
Uthamapalayam

COPY TO: -

The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+1 CC to M/s.K.SEKAR, Advocate (SR-2884[F] dated 28/01/2022)

+1 CC to M/s.D.NALLATHAMBI, Advocate (SR-2896[F] dated 28/01/2022)
C.R.P (MD)No.2084 of 2021
27.01.2022

AC (CO)

GC(10.02.2022) 3P 6C