



C.R.P.(NPD)No.1405 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(NPD)No.1405 of 2019
and C.M.P.No.9235 of 2019

N.Govindaraj

.. Petitioner

Vs.

India Cements Capital Limited
Represented by its Executive Mr.K.Saravanakumar
No.38, Sterling Road
Chennai-600 034
Having its Branch Office
at No.135, 1st floor
D.B.Road, R.S.Puram
Coimbatore – 641 002.

.. Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India against the docket order dated 19.02.2019 made in E.A.No.127 of 2018 in E.P.No.26 of 2016 in A.C.P.No.10 of 2003 on the file of the V Additional District Court, Coimbatore.



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For Petitioner : Mr. Ramesh Venkatachalapathy

For Respondent : Mr. S.Patrick

ORDER

The revision has been filed against an order dated 19.02.2019 passed in E.A.No.127 of 2018 in E.P.No.26 of 2016 on the file of the V Additional District Court, Coimbatore.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondent. I have carefully gone through the records.

3. An award was passed in A.C.P.No.10 of 2003 on 21.02.2005. On the strength of the award, an execution petition was filed for arrest of the civil revision petitioner, in case, he does not pay a sum of Rs.25,34,989/-. The petitioner was called absent and set exparte on 19.08.2015. After a detailed enquiry, the Executing Court ordered arrest on 10.07.2018. Only thereafter, an application in E.A.No.127 of 2018 had been filed by the



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judgment debtor for the purpose of setting aside the exparte order dated 19.08.2015.

4. The reason for non appearance is, the petitioner would state that he was not put on notice on the proceedings. The Executing Court had dismissed the application recording that right from the time of the institution of the execution proceedings, both the judgment debtors were aware of the same and the new stand taken by the second judgment debtor that he is not aware of the execution proceedings is false. Absolutely, no sufficient cause has been made out and I am not satisfied with the reasons for the purpose of condoning the huge delay of 1092 days in filing an application to set aside the exparte decree. The respondent/decreed holder has been made to run from pillar to post by the judgment debtors.

5. On the request of Mr.Ramesh Venkatachalapathy, I issued notice to the decreed holder, India Cements Capital Limited, to find out if any payment has been made pending the execution proceedings.



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6. Mr.S.Partrik, learned counsel for the decree holder/respondent would submit that till date, no payment has been made.

7. Since no payment has been made by the judgment debtors and the decree is more than 18 years old, I am not inclined to interfere with the order of the trial Court dated 19.02.2019 made in E.A.No.127 of 2018 in E.P.No.26 of 2016 in A.C.P.No.10 of 2003. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

08.08.2023

Index:Yes/No
Speaking Order :Yes/No
Neutral Citation:Yes/No

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To
V Additional District Judge, Coimbatore.



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V.LAKSHMINARAYANAN,J.

Kj

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