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C.R.P.No.4390 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.12.2023

CORAM:

THE HON'BLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.No.4390 of 2023

and

C.M.P.No.26650 of 2023

S.Rajasekar

... Petitioner

-Vs-

M.Kuppusamy

... Respondent

Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the order dated 17.11.2022 passed in I.A.No.1 of 2022 in O.S.No.2900 of 2017 by the learned XVIII Additional District Judge, City Civil Court, Chennai by allowing the CRP.

For Petitioner : Mr.S.Arivazhagan

For Respondent : Mr.Ravichandran

ORDER

Challenging the impugned order passed in I.A.No.1 of 2022 in O.S.No.2900 of 2017 passed by the earned XVIII Addl. District Judge,



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City Civil Court, Chennai, the Revision Petitioner/defendant preferred this Civil Revision Petition.

2. Before the trial court, the Revision Petitioner filed an application to condone the delay of 1158 days to set aside the exparte decree passed against him on 23.11.2017. Both applications were dismissed by the trial judge stating that no proper reason was assigned for the delay, besides, he watched the entire proceedings and he has not taken any steps immediately to set aside the exparte decree and only after receipt of notice in the execution proceedings, he filed the said applications. Challenging the said findings, the Revision Petitioner/defendant preferred this Civil Revision Petition.

3. The learned counsel for Revision Petitioner would submit that during Covid-19 pandemic period, he appeared before the execution proceedings, thereby he was not able to file the petition to condone delay. But, without considering his submissions, the trial judge dismissed both the applications. Hence, he prayed to set aside the findings of the trial judge.



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4. Admittedly, the Execution Petition was filed and the same was taken on file in E.P.No.165 of 2019 and a private notice was sent during February 2020 and thereafter, the case was adjourned for filing counter objections and all those dates are during Covid period. So, even after receipt of notice, he has not taken any steps to set aside the exparte decree immediately as per the submissions made by the respondent's counsel. The trial judge has mentioned the dates in its order shows that even after entering appearance in the execution proceedings, he has not taken steps to set aside the exparte decree. However, the learned counsel for revision petitioner would submit that he is ready to conduct the trial and also filed written statement before the trial court. Therefore, by giving one more opportunity, this Court is inclined to set aside the findings of trial judge in I.A.No.1 of 2022 in O.S.No.2900 of 2017 and the Revision Petitioner is directed to deposit a sum of Rs.5 lakhs before the trial court in the suit in O.S.No.2900 of 2017 within a period of four weeks from the date of receipt of copy of this order. However, on seeing the conduct of Revision Petitioner, he is also directed to pay a sum of Rs.20,000/- as cost to the respondent's counsel within a period of four weeks from the date of receipt



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of copy of this order and on such deposit, both applications are ordered to be allowed. Furthermore, the Revision Petitioner is directed to cooperate with the trial proceedings. Accordingly, this Civil Revision Petition is allowed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

06.12.2023

Index : Yes/No
Speaking Order : Yes/No
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To

The XVIII Additional District Judge,
City Civil Court, Chennai.



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T.V.THAMILSELVI, J.

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