



C.R.P.No.2022 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.10.2023

CORAM:

THE HONOURABLE Mrs.JUSTICE T.V.THAMILSELVI

C.R.P.No.2022 of 2023

and

C.M.P.No.12663 of 2023

1.Pangajam

2.Saranya

.. Petitioners

Vs

Kannathal

.. Respondent

PRAYER: Civil Revision Petition is filed under Section 115 of Civil Procedure Code, against the fair and decretal order passed in E.A.No.69 of 2022 in E.P.No.34 of 2021 in O.S.No.32 of 2018 dated 16.03.2023 by the Court of Subordinate Judge, Kangayam.

For Petitioners : Mr. M. Selvam

For Respondent : Mr. N. Manokaran



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ORDER

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This Civil Revision Petition has been filed challenging the impugned order passed in E.A.No.69 of 2022 in E.P.No.34 of 2021 in O.S.No.32 of 2018, the Judgment debtors have preferred this revision.

2. Before the executing Court, the judgment debtors 2 & 3 / petitioners filed an application to take steps to set aside ex parte order. But there is a delay of 70 days. Hence, prayed to condone the delay. The decree holder raised an objections stating that within 30 days from the date of ex parte i.e., 06.09.2021, the Judgment debtors have not filed application. After 30 days, they filed application and purposely dragged the proceedings, though they are Advocates by profession.

3. Considering both the submissions, the trial Judge held that the reason for the delay has not been properly explained and accordingly, dismissed.



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4. Challenging the said finding, the petitioners preferred this revision before this Court.

5. Learned counsel for the revision petitioners submitted that before the executing Court, they filed an application to take steps to set aside ex parte order. But there is a delay of 70 days. The delay was neither wilful nor wanton but the trial Judge failed to give one more opportunity for them to contest the execution proceeding. Besides, already they filed an application to set aside ex parte proceeding in I.A.No. 400 of 2022, the revision petitioners are taking steps to set aside the ex parte decree. Hence, one more opportunity has to be given to prove their case to face the trial.

6. However, the learned counsel appearing for the respondent submitted that the plaintiff is a senior citizen and the defendants / revision petitioners are Advocates by profession. Knowing well about the legal consequence, they purposely dragged the proceedings.



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7. Considering the submissions on either side, this Court is inclined to set aside the finding of the trial Court by giving one more opportunity with a condition to deposit Rs.20,000/- in the executing Court within a period of three weeks from the date of receipt of copy of this order. The order passed by the learned trial Judge in E.A.No.69 of 2022 in E.P.No.34 of 2021 in O.S.No.32 of 2018 dated 16.03.2023 by the Court of Subordinate Judge, Kangayam. is set aside and both the parties are directed to cooperate for the execution proceedings.

8. Accordingly, this Civil Revision Petition is disposed of. Consequently, connected miscellaneous petition is closed. No costs.

20.10.2023

Index :Yes/No
Neutral Citation :Yes/No
AT

To
The Subordinate Judge, Kangayam.



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T.V.THAMILSELVI, J.

AT

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