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C.R.P.(NPD)No.2041 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.07.2023

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.(NPD)No.2041 of 2019
and CMP.No.13227 of 2019

K.Desingh Gounder

.. Petitioner

VS

1.The Arni Taluk Co-op. Housing Society, Ltd.,
NAHSG: 38, represented by its Secretary,
Arni-632 301.

2.The Vellore Co-operative Sub-Registrar Housing,
Vellore.

.. Respondents

Petition filed under Article 227 of the Constitution of India against
the order of the Learned Principal District Judge, Vellore made in
I.A.No.10 of 2017 in C.T.A.No.24 of 2004 dated 28.02.2019.

For Petitioner : Mr.R.Bhagawat Krishna

For Respondents : Ms.T.Girija (for R1)

Mr.B.Tamil Nidhi (for R2)
Additional Government Pleader (CS)



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ORDER

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The revision arises against an order passed by the learned Principal District Judge, Vellore in I.A.No.10 of 2017 in CTA.No.24 of 2004. CTA.No.24 of 2004 was filed against the arbitration award in Arbitration No.722/2003-2004.

2.The arbitration was initiated by the Arni Taluk Cooperative Societies Limited. The claim in the arbitration was for Rs.80,000/- together with interest and penal interest. An award was passed for Rs.2,91,377/-. An appeal was preferred in CTA.No.24 of 2004. The said appeal was dismissed for default on 23.10.2008. To restore the appeal, an application was filed in I.A.No.10 of 2017. There was a delay of 3148 days in filing the application to restore the appeal.

3.The learned Appellate Judge examined PW1 as a witness. The reason given by PW1 was that the advocate did not inform him about the stage of the case and he came to know of the dismissal only when the execution petition was served on him.

4.The learned District Judge dismissed the application holding that every days delay has not been explained and therefore, the present revision.

5.I heard Mr.R.Bhagawat Krishna, learned counsel appearing for



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the petitioner, Ms.T.Girija, learned counsel appearing for the first respondent and Mr.B.Tamil Nidhi, learned Additional Government Pleader (CS) appearing for the second respondent.

6.This is the case where an award has been passed for which the penal interest itself comes to about Rs.1,09,902/-. It seems like not a single penny has been repaid by the petitioner to the first respondent. The reason that has been given is that the advocate did not follow up the matter. An appeal having been presented, it is the duty of the lawyer to follow up the matter and in case he does not do so, the party cannot be penalised.

7.Nonetheless, the society cannot be without any money. Therefore, the impugned order is set aside on condition that the petitioner shall deposit the principal amount of Rs.80,000/- together with interest as on date to the credit of CTA.No.24 of 2004. In case, he deposits the aforesaid amount, the delay will be condoned and the appeal will be restored and disposed of on merits. If the petitioner does not pay the principal amount together with interest till date to the credit of the appeal, the civil revision petition will stand dismissed. It is made clear that the petitioner need not deposit the penalty (அபராத வட்டி), but he should only deposit the principal amount with interest thereon.



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8. With the above directions, this civil revision petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

28.07.2023

Index: Yes/No
Speaking order/Non-speaking order
Neutral Citation: Yes/No
vs

To

The Principal District Judge,
Vellore.



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V. LAKSHMINARAYANAN,J.

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