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C.R.P.No.2532 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.07.2023

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.R.P.No.2532 of 2023

B.Gajanandham

.. Petitioner

Versus

1. V.Govindan

2. Geetha Manivannan

.. Respondents

PRAYER : This Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the Docket Order dated 09.06.2023 passed in O.S.No.63 of 2021 by the Principal District Court at Chengalpattu and allow this Civil Revision Petition on the file of this Court.

For Petitioner : Mr.P.Kamarasu

ORDER

The Civil Revision Petition has been filed against the Docket Order dated 09.06.2023 passed in O.S.No.63 of 2021 by the Principal District Court at Chengalpattu and allow this Civil Revision Petition on the file of this Court.



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2. The case of the petitioner is that the petitioner is the plaintiff and the respondents are the defendants. The petitioner filed a suit in O.S.No.63 of 2021 for recovery of money. The second defendant/second respondent purchased the suit property by way of sale deeds dated 06.04.2009, which were registered as document Nos.1485/2009, 1486/2009 and 1487/2009 on the file of the Sub-Registrar's Office, Maduranthagam. Further, the first defendant/first respondent has been appointed and duly constituted by the second defendant/second respondent to be of her lawful power of attorney agent by way of a deed of general power of attorney dated 06.04.2009, which was registered as document No. 159/2009. Based on the said deed, the first defendant/first respondent has mortgaged the suit property with the petitioner/plaintiff on 13.08.2012 by depositing the said original title deeds, viz., sale deeds dated 06.04.2009 bearing Document Nos.1485, 1486 and 1487 of 2009 and other title deeds relating to the suit property with the petitioner/plaintiff and borrowed a sum of Rs.35,00,000/- from the petitioner and he agreed to pay the interest on the mortgaged amount at the rate of 1% per month to the petitioner. As such, the petitioner has been in possession of those title deeds till date. Thereafter, the first respondent did not pay the said amount along with interest. In such circumstances, the



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petitioner issued a legal notice dated 13.06.2019 calling upon the defendants to pay the sum of Rs.63,70,000/- (Rs.35,00,000/- towards principal and Rs.28,70,000/- towards interest). In the reply notice dated 27.06.2019 posted by the second respondent on 09.07.2019, he had duly admitted the execution of deed of general power of attorney dated 06.04.2009. He has also failed to pay the demanded amount. Therefore, the petitioner filed the said suit.

3. The learned counsel for the petitioner submitted that the first and second respondents have entered appearance on 18.03.2021 and 27.06.2022 through his counsel in the said suit. However, they have not filed any written statement so far. He further submitted that the provision of Order VII Rule 1 of C.P.C mandates that the written statement to be filed within 30 days from the date of service of summons and the time for filing the written statement may be extended and however, such extension shall not be later than 90 days from the date of service of summons. Even though 1 year has been so far lapsed, no written statement has been filed by the defendants. He also submitted that the trial Court has not even called the above suit in open Court for hearing in the past 1 year i.e., on



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08.08.2022, 07.11.2022, 09.01.2023, 19.04.2023 and 09.06.2023.

Therefore, he prays to set aside the Docket Order dated 09.06.2023 in O.S.No.63 of 2021 passed by the Principal District Court at Chengalpattu.

4. Heard the learned counsel for the petitioner and perused the materials available on record.

5. On a perusal of records, it is seen that the respondents had failed to file their written statement even after a lapse of period of one year on the ground that the application under Order 7 Rule 11 of CPC was pending and the matter was not at all called for. As the trial Court has not chosen to list the matter for filing written statement before the said Court and the docket order has been passed on 09.06.2023 rejecting the claim, thereafter, the petitioner has come up seeking permission to file written statement.

6. In view of the above, this Court inclined to dispose of the present Civil Revision Petition by directing the respondents/defendants to file written statement within a period of three weeks from the date of receipt of a copy of this order and thereafter, the trial Court shall dispose of the suit



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as expeditiously as possible without granting any unnecessary adjournments.

7. With the above direction, this Civil Revision Petition is disposed of. No costs.

26.07.2023

kv

Index: Yes/No

Speaking order/Non-speaking order

Neutral Citation: Yes/No

To

1. The Principal District Court at Chengalpattu.
2. The Section Officer,
V.R. Section,
High Court, Madras.



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V.BHAVANI SUBBAROYAN,J.

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