



CRP No.4358 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :17.11.2023

CORAM :

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

Civil Revision Petition No.4358 of 2023

and

CMP.No.26478 of 2023

Subramanian

... Petitioner

Versus

Veeramani

... Respondent

Civil Revision Petition filed Under Section 115 of Code of Civil Procedure, praying to set aside the fair and decretal order passed by the learned Principal District Judge, Ariyalur in E.A.No.1 of 2020 in E.P.No.32 of 2019 in O.S.No.4 of 2015, dated 07.12.2021.

For Petitioner : Mr. R.Sreekanth

For Respondent : Mr. S.Kamadevan

ORDER

The petitioner has filed this petition to set aside the fair and decretal order passed by the learned Principal District Judge, Ariyalur in E.A.No.1 of 2020 in E.P.No.32 of 2019 in O.S.No.4 of 2015, dated 07.12.2021.



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2. Heard, Mr. R.Sreekanth, the learned counsel for the petitioner, Mr.S.Kamadevan, the learned counsel appearing for the respondent and perused the materials available on record.

3. Before the trial Court the respondent has filed a suit O.S.No.4 of 2015 for specific performance of the sale agreement dated 28.02.2013 and in alternative the respondent has sought for the refund of the amount and the same was contested by the revision petitioner herein. On considering both side submissions the suit was decreed in favour of the respondent by directing the defendant to refund the advance amount of Rs.7,90,000/- with interest. Against which no appeal was preferred by the revision petitioner / defendant. To execute the decree the plaintiff has filed E.P.No.32 of 2019, in the execution proceedings the revision petitioner / defendant remains ex-parte. After issuing of notice to the defendant in the execution proceedings, the petitioner came to know that he was set ex-parte on 16.09.2019. Immediately, he filed application to condone the delay of 103 days in filing the application to set aside the ex-parte decree and the same was dismissed. Against which now the revision petitioner / defendant has preferred this petition to condone the delay of 399 days in filing the above revision petition and the same was condoned by this Court.



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4. On considering both side submissions, this Court is inclined to give one more opportunity to the revision petitioner / Judgment debtor to contested the suit with a condition to deposit a sum of Rs.1,00,000/- (Rupees one lakh only) to the credit of O.S.No.4 of 2015 on the file of the Principal District Judge, Ariyalur. On such deposit, this Court is inclined to set aside the findings rendered by the learned trial Judge in I.A.No.6 of 2023, in O.S.No.4011 of 2022. Accordingly, I.A is allowed.

5. However, the revision petitioner is directed to pay a sum of Rs.1,00,000/- (Rupees one lakh only) to the credit of O.S.No.4 of 2015 within a period of four weeks from the date of receipt of a copy of this order, failing which the petition will be dismissed as no merits and the petitioner is directed to work out the remedy before the appellate Court and also directed to co-operate for the execution proceedings.

6. Accordingly, this Civil Revision petition is disposed of. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

17.11.2023

Index : Yes/No

Speaking/Non Speaking order

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T.V. THAMILSELVI, J.

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To

- 1.The Principal District Judge, Ariyalur.
- 2.The Section Officer,
VR-Section, High Court of Madras.

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