



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.10.2023

CORAM:

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

C.R.P.Nos.2707 & 2712 of 2023
and C.M.P.Nos.16702 & 16720 of 2023

K.Sangamithra

...Petitioner in both CRPs

Vs.

N.R.Usha

... Respondent in both CRPs

Prayer in CRP No.2707/2023: Civil Revision Petition filed under Article 227 of Constitution of India, to allow the Civil Revision Petition by setting aside the common order dated 12.06.2023 passed in E.A.No.1 of 2023 in E.P.No.4095 of 2022, on the file of IX Asst. City Civil Court, Chennai in O.S.No.2789 of 2018, on the file of IV Asst. City Civil Court, Chennai.

Prayer in CRP No.2712/2023: Civil Revision Petition filed under Article 227 of Constitution of India, aggrieved with the common order dated 12.06.2023 passed in E.A.No.2 of 2023 in E.P.No.4095 of 2022, on the file of IX Asst. City Civil Court, Chennai in O.S.No.2789 of 2018, on the file of IV Asst. City Civil Court, Chennai.

For Petitioner in both CRPs	:	Mr.R.Thanjan
For Respondent in both CRPs	:	Mr.V.R.Rakesh



COMMON ORDER

Challenging the impugned orders passed in E.A.Nos.1 & 2 of 2023, the Judgment Debtor before the Executing Court filed an application to condone the delay of 41 days in filing petition to set aside the exparte order and to set aside the exparte order dated 11.10.2022 passed in E.P.No.4095 of 2022 in O.S.No.2789 of 2018.

2.The Decree Holder filed a suit for recovery of money in which, proper notice was not served according to the Revision Petitioner, after obtaining the exparte decree, the Execution Petition was filed.

3.Learned counsel for the Revision Petitioner submitted that after the receipt of notice, they came to know about the exparte decree, immediately they filed an application to set aside the exparte decree, and Order 9 Rule 13 application is pending without passing any orders.

4.Meanwhile, the Executing Court allowed the application by imposing a cost of Rs.20,000/-. Challenging the same, the present Revision Petition has been filed.



5.Learned counsel submits that he has valid defence to prove his claim before the Trial Court without disposing Order 9 Rule 13 application, the Executing Court has allowed the said application by imposing a cost of Rs.20,000/- which is erroneous.

6.Considering the fact, learned counsel for the respondent also appeared and admittedly, based on the exparte decree, the Execution Petition was filed. Now, the Trial Court imposed a cost of Rs.20,000/- in order to set aside the delay of 41 days and Order 9 Rule 13 application is pending before the Court. Therefore, considering those submissions, this Court is inclined to set aside the findings rendered in the Executing Applications.

7.The Trial Court is directed to dispose of Order 9 Rule 13 application as early as possible. Till such time, the Execution Petition need not be prosecuted. However, the cost of Rs.20,000/- is ordered to be reduced to Rs.10,000/- and pay the same before the Executing Court within a period of three weeks from the date of receipt of a copy of this order.



C.R.P.Nos.2707 & 2712 -----

8. With the above directions, the Civil Revision Petitions are disposed of.

No costs. Consequently, the connected miscellaneous petitions are closed.

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Index: Yes/No

Speaking Order/Non-Speaking Order

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C.R.P.Nos.2707 & 2712 -----

To

1.The IX Asst. City Civil Court, Chennai.

2.The IV Asst. City Civil Court, Chennai.



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C.R.P.Nos.2707 & 2712 -----

T.V.THAMILSELVI, J.

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C.R.P.Nos.2707 & 2712 of 2023

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