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CRP. No.3017 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.07. 2023

CORAM:

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

CRP No. 3017 of 2023
& CMP No. 18623 of 2023

Y.Chinnaiah (Died)

1.Ravanamma

2.Raju

...Petitioners

Vs.

Srinivasa Rao @ Sudalagunta

...Respondent

PRAYER in RCOP NO. 1150 of 2016 : This Civil Revision Petition is filed under Section 227 of the Constitution of India, praying to set aside the fair and decreetal order dated 30.06.2023 passed in I.A(S.R) No. 32250 of 2023 in O.S No. 2455 of 2018 by the learned XXII Assistant Judge, City Civil Court at Chennai.

For Petitioners : Mr.R.Abdul Mubeen

For Respondent : Mr.J.kannan



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ORDER

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This Civil Revision petition has been filed to set aside the fair and decreetal order dated 30.06.2023 passed by the learned XXII Assistant Judge, City Civil Court, Chennai in I.A(S.R) No. 32250 of 2023 in O.S No. 2455 of 2018.

2. The respondent herein/plaintiff filed a suit in O.S No. 2455 of 2018 against the petitioners herein for the relief of declaration and deliver of possession. During the pendency of the suit, the compromise was arrived between the parties on 18.11.2022 and as per the terms of the compromise defendants/petitioners herein agreed to pay a sum of Rs.14,00,000/- to the plaintiff/respondent herein on or before 31.03.2023 and the said compromise was recorded. Thereafter, on 31.03.2023 the petitioners herein/Defendants filed a petition before the Trial Court under Section 148 r/w Section 151 of CPC, for extension of time to pay the agreed sum of Rs. 14,00,000/- to the respondent herein/plaintiff. After considering the submission of the petitioners herein/defendants the Trial Court held that the petition is not maintainable for the reason that the judgement was pronounced on 23.11.2020 hence the petition for extension of time could



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not be granted by this court. Accordingly, the said petition was dismissed without taken on file. Challenging the same the petitioners herein/defendants filed this petition.

3.The learned counsel for the petitioner submitted that as per Section 148 and 151 of CPC, the Trial Court has jurisdiction to extend the time even if the original period fixed was expired to that effect he relied the Judgment of this Court in the case of **Gowri Ammal Vs Murugan and others:**

18. In the light of the principles laid down by the Supreme Court in Salem Advocate Bar Associations, T.N v.Union of India, 2005 (6) SCC 344, Sections 148 and 151, CPC allow extension of time, even if the original period fixed has expired. Similarly, Section 149 also is equally liberal in this respect.

19. So, a conjoint reading of Sections 148, 149 and 151,C.P.C would make it clear that the Court has power to extend time beyond the stipulated period, when sufficient cause exists or events pointed out to the Court for non-compliance of the order are beyond the control of the party, as the object of the Code is not to promote failure of justice.

4. By relying the ratio laid down in the judgment the learned counsel for the petitioner prays to allow this petition.

5. Heard both sides.

6. Considering the facts of the case, the petitioners were agreed to pay a sum of Rs.14,00,000/- to respondent on or before 31.03.2022 as per the compromise memo dated 18.11.2022. Thereafter, on 31.03.2022 the



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petitioners herein filed a petition in I.A S.R. No. 32250 of 2023 in O.S No. 2455 of 2018 under Section 148 and 151 of CPC sought extension of time to pay the said amount but the Trial Court dismissed the said petition stating that after pronouncement of judgement the petition for extension could not be granted. It is settled proposition that Section 148, 149 and 151 of CPC should be read co-jointly and not in isolation. The Court does not become *functus officio* on passing of compromise decree, the court has jurisdiction to extend the time for compliance of orders even after expiry of time originally granted. Section 148 and 151 of CPC can be invoked to seek order necessarily for ends of justice, procedure is meant to facilitate administration of real justice **and to defeat the same**. Therefore, the Trial Court is empowered to entertain the said application under Section 148 and 151 of C.P.C. Hence the Order passed by the Trial Court in I.A(S.R) No. 32250 of 2023 in O.S No. 2455 of 2018 is set aside. Now, the petitioners are ready to deposit the said amount and also filed the copy of the Demand Draft for a sum of Rs.14,00,000/-. Hence, the Trial Court is directed to take the petition on file and extend the time to deposit the said amount.

7. In result, this Civil Revision petition is allowed. No Cost.



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Consequentially Connected Miscellaneous petition is closed.

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04.10.2023

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Note: Issue order copy on 04.10.2023.

T.V.THAMILSELVI,J.

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