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C.R.P.No.3726 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30-01-2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

CRP No.3726 of 2022

And

CMP No.19670 of 2022

1.Sembuthu Arakkatalai

Charitable Trust,

Represented by its President Mr.K.P.Natarajan,

At Door No.B23,

Rajaji Street,

Swarnapuri,

Salem – 636 004.

2.Sembuthu Arakkatalai,

Charitable Trust,

Represented by its Secretary Mr.P.Krishnan,

S/o.Ponmalai Gounder,

At Door No.7/90,

Pachpalikadu,

Koonavelampatti Puthur,

Rasipuram Taluk,

Namakkal District.

... Petitioners

VS.

Palanivel

... Respondent



The Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decretal order dated 27.08.2022 made in IA No.5 of 2021 in IP No.2 of 2020 on the file of the Sub Court at Rasipuram.

For Petitioners : Mr.J.Ramakrishnan

For Respondent : Mr.P.Navaneetha Krishnan

ORDER

The present Civil Revision is filed against the fair and decretal order dated 27.08.2022 passed in IA No.5 of 2021 in IP No.2 of 2020 on the file of the Sub Court at Rasipuram.

2. The revision petitioners are the respondents 4 and 5 in IP No.2 of 2020. The revision petitioners were set ex parte on 23.10.2021 since they have not filed counter-affidavit in the Insolvency Petition (IP).

3. The revision petitioners filed IA in IA No.5 of 2021 to set aside the ex parte order passed by the Trial Court. The Court adjudicated the grounds on which the Interlocutory Application was filed and dismissed the



same on the ground that the reasons stated for setting aside the ex parte order are neither candid nor convincing.

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4. The revision petitioners allowed the Court to pass ex parte order with an idea to drag on the proceedings and therefore, the Trial Court refused to consider the grounds raised by the revision petitioners to set aside the ex parte order.

5. The findings of the Trial Court reveals that the revision petitioners have wantonly avoided the proceedings though they had knowledge about the proceedings, which was pending before the Court concerned.

6. Despite the fact that they were aware of the proceedings, they have allowed the Court to pass ex parte order and therefore, the Court formed an opinion that such ill-motive of the litigants to drag on the proceedings cannot be encouraged.

7. This Court do not find any infirmity in respect of the



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findings made by the Trial Court in the order impugned.

8. The learned counsel for the respondent brought to the notice of this Court that during the pendency of the Interlocutory Application, the revision petitioners filed a memo of stating that they are ready to deposit a sum of Rs.2,80,000/- in IP No.2 of 2020 and therefore, the Interlocutory Application filed by them to set aside the ex parte order is to be allowed. However, the Trial Court has not considered the said memo and dismissed the Interlocutory Application.

9. In view of the fact that the revision petitioners have filed a memo that they are ready to deposit a sum of Rs.2,80,000/- in the credit of the IP No.2 of 2020.

10. Thus this Court is inclined to consider the present Civil Revision Petition in order to provide one opportunity to the revision petitioners to contest the case on merits and in accordance with law.



11. Considering the facts and circumstances, the fair and decretal order dated 27.08.2022 passed in IA No.5 of 2021 in IP N.2 of 2020 is set aside on condition that the revision petitioners deposit a sum of Rs.2,80,000/-in the credit of IP No.2 of 2020, within a period of four weeks from the date of receipt of a copy of this order, failing which the present Civil Revision Petition stands dismissed automatically and the order passed in IA No.5 of 2021 in IP No.2 of 2020 dated 27.08.2022 stands restored automatically.

12. Accordingly, the present Civil Revision Petition stands allowed on the abovesaid conditions. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

30-01-2023

Index : Yes / No
Internet : Yes/No.
Neutral Citation : Yes / No
Speaking order / Non-speaking order
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To

The Sub Judge,
Sub Court,
Rasipuram.



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S.M.SUBRAMANIAM, J.

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