



C.R.P. No.3838 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2023

CORAM

THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.No.3838 of 2022
and C.M.P.No.14200 of 2022

Hare Krishna Movement
Rep by its Vice President,
Mr.Kodandarama Dasa

... Petitioner

Vs

C.Jeyachandran
Respondent

...

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 08.11.2022 passed in I.A.No.1 of 2021 in O.S.No.2703 of 2019 on the file of the XVII Assistant City Civil Court, Chennai.

For Petitioner : Mr.S.Veeraraghavan

For Respondent : Mr.P.Rajendrakumar



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ORDER

This civil revision petition has been filed to set aside the fair and decreetal order dated 08.11.2022 passed in I.A.No.1 of 2021 in O.S.No.2703 of 2019 on the file of the XVII Assistant City Civil Court, Chennai.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondent.

3. The petitioner is the defendant in the suit filed by the respondent herein for directing the petitioner to pay a sum of Rs.1,81,881/- together with interest at 12% per annum from the date of plaint till the date of realization and for costs to the respondent. The petitioner failed to appear before the Trial Court and hence, he was set ex-parte. Thereafter, the respondent filed an Execution Petition in E.P.No.938 of 2021. In the mean while, the petitioner has filed applications in I.A.Nos.1 and 2 of 2021 to condone the delay of 732 days in filing the petition to set aside the exparte decree dated 25.07.2019 and to set aside the exparte decree dated 25.07.2019 and the same were dismissed. Aggrieved over the same, this civil



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revision petition has been filed.

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4.The learned counsel for the petitioner/defendant submitted that proper notice was not served and after receipt of the notice in E.P.No.938 of 2021, he came to know that the decree was passed against him. The trial Court without observing the facts, had erroneously dismissed the applications.

5.The learned counsel for the respondent/plaintiff submitted that proper summons was served and the defendant has knowledge about the suit proceedings and the same was rightly observed by the trial Court and hence, he prayed for dismissal of the revision.

6.On perusal of the records it is seen that the respondent/plaintiff filed a suit for recovery of money against the petitioner/defendant and an exparte decree was also passed against the petitioner/defendant on 25.07.2019. At the stage of execution of the decree, the petitioner/defendant filed an application to condone the delay of 732 days in filing the petition to set aside the exparte decree without any reason.



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7. The contention of the revision petitioner/defendant is that he has not engaged the respondent/plaintiff as a contractor and he is having a valid reason.

8. To give one more opportunity to the petitioner to contest the suit, the order passed by the learned XVII Assistant Judge, City Civil Court, Chennai, in I.A.No.1 of 2021 in O.S.No.2703 of 2019 dated 08.11.2022, is set aside. The Civil Revision Petition is allowed with condition to deposit a sum of Rs.50,000/- in O.S.No.2703 of 2019 pending before the learned XVII Assistant Judge, City Civil Court, Chennai, within a period of two weeks from the date of receipt of a copy of this order. On such deposit, E.P.No.938 of 2021 is ordered to be stayed. The learned XVII Assistant Judge, City Civil Court, Chennai is directed to dispose the suit in O.S.No.2703 of 2019 within a period of three months thereafter. Consequently, connected Miscellaneous Petition is also closed.

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Index : Yes/No
Speaking Order : Yes/No

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To

1. The XVII Assistant Judge, City Civil Court, Chennai.



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T.V.THAMILSELVI, J.

vkr

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and C.M.P.No.20181 of 2022

30.11.2023