



C.R.P(MD)No.427 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **16.06.2023**

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.R.P(MD)No.427 of 2023

and

C.M.P(MD)No.2075 of 2023

Ragumathu Nisha

...Petitioner/Petitioner/
Petitioner/Respondent/
Respondent (tenant)

Vs.

Syedabdul Kadar Maraikkayar

...Respondent/Respondent/
Respondent/Petitioner/
Petitioner (Landlord)

PRAYER: Civil Revision Petition is filed under Section 115 of C.P.C., to set aside the order passed by the learned District Munsif, Paramakudi at Ramanathapuram in E.A.No.95 of 2022 in E.A.No.163 of 2021 in E.P.No.01 of 2021 in R.C.O.P.No.09 of 2014, dated 03.01.2023 by allowing to restore the E.A.No.163 of 2021.

For Petitioner : Mr.S.A.S.Alaudeen

For Respondent : Mr.M.Kaliraj



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ORDER

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The present Civil Revision Petition has been filed against the order passed by the District Munsif Court, Paramakudi at Ramanathapuram in E.A.No.95 of 2022 in E.A.No.163 of 2021 in E.P.No.01 of 2021 in R.C.O.P.No.09 of 2014, dated 03.01.2023 allowing restoration of E.A.No.163 of 2021.

2. This case has also been coming up in the list regularly since 15.03.2023 after notice was ordered and interim order was granted on 21.02.2023. The interim order is being extended from time to time, as the case could not be taken for hearing when it was listed on 28.04.2023.

3. Barring few grounds in the Civil Revision Petition where refer to the following few decisions, there are no grounds raised by the petitioner to assail the impugned order passed by the learned District Munsif, Paramakudi.

(i) Ali Jafar vs. Vekata Reddy [AIR 2012 AP 102]

(ii) Salem Advocate Bar Association, Tamil Nadu vs. Union of India [2005 (6) SCC 344]



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- (iii) Gowri Ammal vs. Murugan and others [2006 (3) CTC 418]
- (iv) Shafiq Ahamed vs. P.D.Suguna [200 (1) IDL 253 (AP)]
- (v) Parvathy vs. Subramanian @ Kasi Nadar and others [C.R.P. (MD)No.111 of 2009]

4. The learned counsel for the petitioner submits that the respondent has secured an *ex parte* order on R.C.O.P.No.9 of 2014 without proper notice in R.C.O.P.No.9 of 2014. It is further submitted that E.P.No.1 of 2021 was filed almost after lapse of seven years of which the petitioner was got unaware. It is submitted that on account of various factors, the petitioner could not appear in E.P.No.1 of 2021 and therefore, the petitioner was set *ex parte* on 08.10.2021.

5. Under these circumstances, the petitioner filed E.A.No.163 of 2021 which came to be allowed on terms on 18.10.2022 directing the petitioner to pay a sum of Rs.2,000/- on or before 31.10.2022. However, the Counsel failed to intimate the same. Therefore, the petitioner later filed E.A.No.95 of 2022 on 08.12.2022 which came to be dismissed on 03.01.2023. It is submitted that the delay is only a marginal delay and



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therefore, the petitioner is entitled to contest the E.P. Therefore, fair opportunity may be granted.

6. The learned counsel for the respondent submits that the respondent had filed R.C.O.P.No.9 of 2014 before the District Munsif Court, Ramanathapuram. The petitioner herein remained absent and therefore, the said R.C.O.P. was allowed *ex parte* on 22.08.2014.

7. Pursuant to the above, the respondent filed E.P.No.1 of 2021 to execute the *ex parte* decree in R.C.O.P.No.9 of 2014, dated 22.08.2014. It is submitted that even in the said E.P., the petitioner remained absent and was set *ex parte* on 22.10.2021. Thereafter, the petitioner filed E.A.No.163 of 2021 to condone the delay in setting aside the *ex parte* order passed in E.P.No.1 of 2021 dated 22.10.2021.

8. It is submitted that E.A.No.163 of 2021 was allowed on 18.10.2022, by condoning the delay of 200 days in filing the application to set aside the *ex parte* order dated 22.10.2021, directing the petitioner to deposit a sum of Rs.2,000/- on or before 31.10.2022 and posted the case for reporting compliance on 01.11.2022. However, the petitioner



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failed to comply with the said order. Thereafter, the petitioner has filed E.A.No.95 of 2022 under Section 148 of C.P.C. to deposit the amount, which has been rightly dismissed by the Court below vide the impugned order, dated 03.01.2023 and therefore, submitted that the impugned order does not call for any interference.

9. In support of his submissions, the learned counsel for the respondent relied on the following decisions of this Court:

(i) Kishta Pillai vs. Dass and others [C.R.P.(NPD)No.826 of 2014, decided on 09.01.2017]

(ii) P.Balasubramani vs. P.Chinnasamy [C.R.P.(NPD)No.1628 of 2014, decided on 08.0.2020]

10. I have considered the learned counsel for the petitioner and the respondent.

11. The Courts are empowered to enlarge the period under Section 148 of C.P.C. The delay in paying the cost ordered on 18.10.2022 in E.A.No.163 of 2021 is not so enormous so as to disallow the right of



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appearance and to defend herself in E.A.No.1 of 2021 filed by the respondent.

12. Considering the same, I am inclined to set aside the impugned order passed in E.A.No.95 of 2022 and thereby allow E.A.No.95 of 2022 filed by the petitioner subject to terms the petitioner paying over and above a sum of Rs.2,000/- already ordered and a further sum of Rs.3,000/- to the respondent within a period of 30 days from the date of receipt of copy of this order. Subject to such compliance, E.A.No.95 of 2022 shall stand allowed. The District Munsif Court, Paramakudi, Ramanathapuram shall thereafter endeavour to dispose of E.P.No.1 of 2021 as expeditiously as possible preferably within a period of 3 months.

13. The present Civil Revision Petition stands disposed of with the above observations. No costs. Consequently, connected miscellaneous petition is closed.

16.06.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

1. The District Munsif Court,
Paramakudi, Ramanathapuram.
2. The Section Officer
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.SARAVANAN,J.

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