



C.R.P(MD).No.2062 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.04.2023

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.R.P(MD).No.2062 of 2022

Parimalas

... Petitioner/Petitioner/Petitioner/
5th Respondent

Vs.

Anbarasan

... Respondent/Respondent/Respondent/
Petitioner

PRAYER:- This Civil Revision Petition has been filed under Article 227 of the Constitution of India, to set-aside the order dated 22.04.2022 passed by the I Additional Sub-Court, Trichy, in unnumbered E.A.No..... of 2022 in E.P.No.203 of 2017 in O.S.No.169 of 2014 and to direct the I Additional Sub Court, Trichy to number the said E.A.

For petitioner : Mr.T.Lenin Kumar
For Respondent : No Appearance

ORDER

This petition has been filed to set-aside the order dated 22.04.2022 passed by the I Additional Sub-Court, Trichy, in unnumbered E.A.No..... of 2022 in E.P.No.203 of 2017 in O.S.No.169 of 2014 and to direct the I Additional Sub Court, Trichy, to number the said E.A.



2.The petitioner is the 5th defendant in O.S.No.169 of 2014 filed by the sole respondent herein to recover the amount from the defendants which includes the petitioner herein. In the suit, the petitioner and the the other defendants remained *ex-parte* and thus, the suit was decreed *ex-parte* on 17.09.2016.

3.Under these circumstances, the respondent file E.P.No.203 of 2017 before the I Additional Sub Court, Trichy to execute the *ex-parte* decree dated 17.09.2016. In the said proceedings also, the petitioner and the other judgment debtors remained *ex-parte* and therefore, the Court has ordered for sale of the mortgage property by it order dated 20.03.2018. On 04.10.2021, the mortgaged property was sold to the respondent himself namely the decree holder. The case was thereafter, listed for reporting confirmation of sale on 03.12.2021, on which date, the petitioner presented a petition under Order XXI Rule 89 of CPC expressing his willingness to pay the entire sale amount. The petitioner however failed to deposit the amount under Order XXI Rule 89 of CPC as contemplated.

4.Under these circumstances, the petition filed by the petitioner under Order XXI Rule 89 was returned on the ground that the petitioner has not



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complied the requirements of Order XXI Rule 89(1)(a) of CPC on 20.12.2021. On 18.12.2022, the petitioner has represented the petition filed under Order XXI Rule 89 of CPC with the following endorsement:-

'E.P.203/2017

Returned

- 1) petition filed under Order 21 Rule 89 of C.P.C. The petitioner has not complied with the requirements of Order 21 Rule 89(1)(a) of CPC.*
- 2) How this petition is maintainable. Hence, returned.*

Sd-xxx

20.12.2021

IASJ'

'Represented

- 1) The petitioner is ready to payment if the Court order amount.*
- 2) Complied with represented.*

Sd-xxx

18.02.2022

IASJ'

'திருப்பப்படுகிறது.

நிறைவேற்று மனு 20.12.2021 அன்று முடிவுற்றது. துற்பொழுது இந்த மனு எவ்வாறு தாக்கல் செய்ய முடியும்.

மனு திருப்பப்படுகிறது.

Sd-xxx

22.04.2022

IASJ'

5.By the time, the petitioner represented the papers before the Court, a further period of 2 months have lapsed.



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6.The learned counsel for the petitioner submits that the limitation that expired due to the outbreak of the Covid-19 pandemic. He has placed reliance on a decision of the Hon'ble Supreme Court in M.A.Nos.21 & 29 of 2022 in AM.A.No.665 of 2021 in Suo Motu W.P.No.3 of 2020 dated 10.01.2022. Wherein it has been stated as follows:-

“1.In March, 2020, this Court took suo-motu cognizance of the difficulties that might be faced by the litigants in filing petitions/applications/suits/appeals/all other quasi proceedings within the period of limitation prescribed under the general law of limitation or under any special laws (both Central and/or State) due to the outbreak of the COVID-19 pandemic.

.....

The Court is convened through video conferencing.

M.A.No.21 of 2022 is disposed of and M.A.No.29 of 2022 is dismissed as withdrawn, in terms of the signed order.”

7.*Prima facie*, it appears that the petitioner is entitled to condonation of delay in filing the application filed under Order XXI Rule 89 of CPC.

8.Under these circumstances, there shall be a direction to the petitioner to deposit the amount decreed together with the interest to the credit of E.P.No.203 of 2017. On such deposit being made by the petitioner on or before 28.04.2023, the I Additional Sub Court, Trichy, shall number the unnumbered E.A.No..... of 2022 in E.P.No.203 of 2017 in O.S.No.169 of 2014 and dispose the same on merits and in accordance with law after notice to the respondent.



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9. With the above directions, this Civil Revision Petition stands
Allowed. No costs.

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21.04.2023

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
dss

Note : Issue order copy on 26.04.2024

Note: The Registry is directed to return the unnumbered E.A.No..... of 2022 in E.P.No.203 of 2017 in O.S.No.169 of 2014)

To

1. The I Additional Sub Court,
Trichy.
2. The Record Keeper,
V.R Section,
Madurai Bench of Madras High Court, Madurai.



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C.SARAVANAN,J.

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