



C.R.P(MD)No.2216 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

C.R.P(MD) No.2216 of 2019

Suthan

...Petitioner

Vs.

1.Thankaraj (died)

2. Vasanthakumari

3. Justin Christopher

4. Satheesh

5. Suresh

...Respondents

(Respondents 2 to 5 are impleaded as legal heirs of the deceased sole respondent vide Court order dated 28.01.2022 made in C.M.P.(MD)No.6986 of 2021)



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PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 03.09.2019 passed in I.A.No.1149 of 2013 in O.S.No.137 of 2000 on the file of the Principal District Munsif Court, Padmanabhapuram and allow this Civil Revision Petition.

For Petitioner : Mr. H. Thayumanaswamy

For Respondents : Mr. S. Rajasekar

ORDER

This Civil Revision Petition is filed against the order dated 03.09.2019 passed in I.A.No.1149 of 2013 in O.S.No.137 of 2000 on the file of the Principal District Munsif Court, Padmanabhapuram.

2. The petitioner is the defendant and the first respondent is the plaintiff in the suit filed for recovery of money basing on the promissory note. The said suit was decreed *ex-parte* on 07.11.2022. The petitioner filed an interlocutory Application in



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I.A.No.1149 of 2013 under Section 5 of the Limitation Act seeking to condone the delay of 3927 days to file a petition to set aside the *ex-parte* decree, dated 07.11.2022. The said application was dismissed by the Trial Court on 03.09.2019.

3. The learned counsel for the petitioner submits that the petitioner is ready to pay the amount to the respondents, if the matter is referred to the mediation. But in view of the facts and circumstances of the case, this Court is not inclined to refer the matter to the mediation as requested by the learned counsel for the petitioner.

4. The Court below taking into consideration of the fact that the decree is passed in the year 2002 and the first respondent purchased the property in Court auction in Execution Proceedings, after completion of all legal formalities and he had also been put into possession by the Court only in the year 2009. Though the petitioner is having the knowledge about the pendency of the suit, he



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came up with the Section 5 petition with a delay of 3927 days.

Considering the abnormal delay and on relying the law laid down by the Hon'ble Apex Court, the Trial Court rightly dismissed the application.

5. On careful perusal of the order under challenge in this Civil Revision Petition, this Court satisfied that the learned Principal District Munsif, Padmanabhapuram, has considered all aspects and passed a reasoned order and as such in our considered view, interference of this Court is not required.

6. Accordingly, this Civil Revision Petition is dismissed.

7. No costs.

08.11.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
RM



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To

The Principal District Munsif,
Principal District Munsif Court,
Padmanabhapuram.



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BATTU DEVANAND, J.

RM

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