



WEB COPY

CRP.No.254 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.11.2024

CORAM:

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

**CRP.No.254 of 2024
and
C.M.P.No.1227 of 2024**

R.Jegannathan

... Petitioner

Vs.

1. P.G.Sharanya Priyadharshini

2. K.Sri Ramulu

3. A.Suburathinammal

4. State Bank of India,
Stressed Assets Recovery Branch (S.A.R.AB),
Red Cross Building, No. 32, Montieth Road,
Egmore, Chennai – 600 008.

5. Rajendran

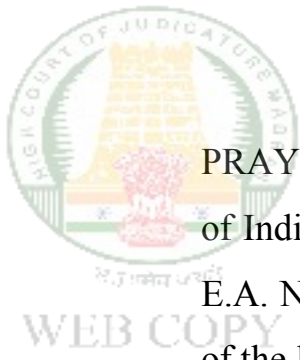
6. Gopi

7. A.R.Apsar

8. The Sub Registrar,
Arani

9. The District Collector,
Tiruvallur.

... Respondents



PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 24.11.2023 passed in E.A. No. 1 of 2023 in E.P. No. 7 of 2021 in O.S.No. 52 of 2017 on the file of the learned Subordinate Judge, Thiruvallur.

For Petitioner : Mr.V.M.Venkataramana

For Respondents : Dr. S.Surya,
Additional Government Pleader
(for R8 & R9)

Mr. C.Shankar (for R1)

No such person (R5 & R7)

ORDER

This Civil Revision Petition has been filed against the fair and decretal order dated 24.11.2023, passed in E.A. No. 1 of 2023 in E.P. No. 7 of 2021 in O.S. No. 52 of 2017, on the file of the learned Subordinate Judge, Thiruvallur.

2. The petitioner is the judgment debtor. The suit in O.S.No. 52 of 2017, was filed by the first respondent against the petitioner and respondents 5 to 9 for delivery of vacant possession. According to the petitioner, he did not receive any summons from the Trial Court in the above suit. However, the petitioner's tenants received the summons and informed



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2.2. The petitioner engaged Advocate Raj Vigneswar to conduct the case and gave him a vakalatnama in his favour. However, despite several requests made by the petitioner's advocate, he was not informed properly. Instead, his advocate informed him that due to the COVID-19 lockdown, the Courts were not functioning. Therefore, the petitioner believed his counsel's words blindly, without any hesitation.

2.3. The petitioner received another notice from the Trial Court and handed it over to his counsel. However, on 24.02.2022, he came to know that some persons, accompanied by the decree holder, visited the suit property and instructed the petitioner's tenants to vacate. Subsequently, the petitioner engaged the present counsel and discovered that he had been set ex-parte in O.S. No. 52 of 2017 for non-filing of the written statement on 20.12.2017 and he had been set ex-parte in E.P. No. 7 of 2021 on 11.02.2022 for non-filing of the counter. Consequently, the petitioner filed an application before the Trial Court to stay all further proceedings in E.P. No. 7 of 2021. However, the trial Court dismissed this application. Aggrieved by this dismissal, the petitioner has filed the present Civil



Revision Petition.

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3. The main contention of the learned counsel for the petitioner is that the first respondent's father, Govindan Kutty Menon, was the power agent of the second respondent. He was very much aware of the pending loan with the fourth respondent; however, this fact was suppressed. Consequently, the property was sold to the third respondent on 10.09.2008. The petitioner, a bonafide purchaser, purchased the property from the third respondent. However, the fourth respondent brought the property to sale, and Govindan Kutty Menon's daughter purchased it at the auction conducted by the fourth respondent. According to the petitioner, the first respondent's initial action regarding the property was fraudulent. Furthermore, the petitioner has already filed an application to set aside the ex-parte decree in O.S. No. 52 of 2017. Therefore, the petitioner seeks to stay all further proceedings in E.P. No. 7 of 2021.

4. On a perusal of the records, it reveals that the petitioner engaged an Advocate to defend the suit in O.S. No. 52 of 2017. However, having engaged counsel, the petitioner did not pursue the matter properly. Very conveniently, the petitioner's new counsel is now blaming the previous



counsel, which has become a routine practice among litigants to obtain orders from the Court. After five years of the ex-parte decree, the petitioner has come up with the story that the previous counsel has not informed him about the case. However, not only was the summons in the suit served on the petitioner, but also the execution petition. The petitioner has filed an affidavit and was aware of the proceedings pending for eviction. Therefore, it cannot be said that the petitioner had no knowledge about the proceedings and that orders were passed behind his back.

5. At any event, now, the petitioner has filed an application in I.A. No. 2 of 2023 to set aside the ex-parte decree with a delay of 1083 days, which is pending. It is for the petitioner to pursue that application as per law. Even if he succeeds in the application, the Trial Court will take a decision on its own merits. In such a view of the matter, at this stage, the impugned order does not require any interference, as it lacks merits.

6. In the result, this Civil Revision Petition is dismissed. However, the Trial Court may dispose of the application filed in I.A.No.2 of 2023 to set aside the exparte decree as expeditiously as possible preferably within a period of two months. It is to be noted that the notice required only against



the owners and mortgagee and not for every tenants. Consequently, the connected Miscellaneous Petition is closed. No costs.

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To

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2. The Sub Registrar,
Arani
3. The District Collector,
Tiruvallur.
4. The Section Officer,
V.R. Section, High Court of Madras.



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N.SATHISH KUMAR, J.

Kv

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