



C.R.P.(NPD).Nos.258, 259 & 263 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(NPD).Nos.258, 259 & 263 of 2021
and
C.M.P.Nos.2459, 2460 & 2470 of 2021

In CRP.No.258 of 2021:

Dr. S.Rajagopal	Versus	... Petitioner
1.A.Chidambaram 2.S.Rangasamy 3.S.Kesavan (R2 & R3 were set ex-parte before Trial Court)		... Respondents

In CRP.No.259 of 2021:

Dr. S.Rajagopal	Versus	... Petitioner
1.A.Chidambaram 2.C.T.Devayani		... Respondents

In CRP.No.263 of 2021:

Dr. S.Rajagopal	Versus	... Petitioner
1.A.Chidambaram 2.Velu Naicker (R2 was set ex-parte before Trial Court)		... Respondents



C.R.P.(NPD).Nos.258, 259 & 263 of 2021

Prayer in CRP.No.258 of 2021: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 17.12.2020 made in I.A.No.782 of 2017 in I.A.No.1385 of 2016 in O.S.No.106 of 2007 on the file of the District Munsif of Chengalpattu.

Prayer in CRP.No.259 of 2021: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 17.12.2020 made in I.A.No.783 of 2017 in I.A.No.1361 of 2016 in O.S.No.107 of 2007 on the file of the District Munsif of Chengalpattu.

Prayer in CRP.No.263 of 2021: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 17.12.2020 made in I.A.No.784 of 2017 in I.A.No.1379 of 2016 in O.S.No.108 of 2007 on the file of the District Munsif of Chengalpattu.

For Petitioner : Mr. P. Venkatraman
(in all cases)

For Respondent : Mr. R. Sagadevan (for R1)
(in all cases) : R2 & R3 (Given up)

COMMON ORDER

These Civil Revision Petitions are filed challenging the order passed by the Trial Court allowing the petition to condone the delay of 187 days in filing the petition to set aside the *ex-parte* decree passed against the first respondent on 22.07.2014.



C.R.P.(NPD).Nos.258, 259 & 263 of 2021

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2. The petitioner herein filed a suit for specific performance against the respondents. The said suit was decreed *ex-parte* at the stage of P.W.1 cross on 22.07.2014 for the failure of the first respondent to continue the cross-examination. Thereafter, the first respondent filed a petition to set aside the *ex-parte* decree along with the petition to condone the delay of 187 days, on 21.06.2000. In the affidavit filed in support of the condone delay petition, it was stated by the petitioner that the agreement of sale relied by the petitioner was not a real agreement and it was executed only as a security for loan transactions. It was further stated by the first respondent that from June 2014 onwards, he was out of station, and he was on pilgrimage to North India.

3. The condone delay petition was opposed by the petitioner on the ground that this is the second occasion, the first respondent was set *ex-parte*. Therefore, the main aim of the first respondent was to drag on the proceedings.

4. The Trial Court taking into consideration the suit is for specific performance of an agreement, had taken a liberal view and accepted the



C.R.P.(NPD).Nos.258, 259 & 263 of 2021

reasons assigned by the first respondent and exercised its discretion by allowing the petition on payment of Rs.1000/-.

5. When the Court below exercised the discretion in favour of the first respondent and condoned the delay, this Court in exercise of its revisional power, not inclined to interfere with the same. However, taking into consideration it is the second occasion the first respondent was set *ex-parte*, this Court feels that petitioner shall be adequately compensated for the default committed by the first respondent. Therefore, the first respondent is directed to pay a further sum of Rs.9,000/- (in each of the CRPs.) as costs to the petitioner, within a period of two weeks from today.

6. In case, the first respondent failed to pay the enhanced costs now ordered by this Court, within the period stipulated above, the respondent is not entitled to the benefit of the order impugned in these Revisions, the condone delay petition before the Court below stands dismissed.



C.R.P.(NPD).Nos.258, 259 & 263 of 2021

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7. In case, the first respondent paid the further enhanced costs within the period as stipulated by this Court, these Civil Revision Petitions stand dismissed by confirming the order passed by the Court below.

8. It is brought to the notice of this Court that subsequent to the impugned order, the Trial Court had taken up the petition to set aside the *ex-parte* decree and the same was allowed.

9. Both the learned counsel for the petitioner and the respondent would submit that taking into consideration the suit is of the year 2007, they would cooperate for completion of the trial within three months time. Recording the same, this Court directs the Trial Court to dispose of the suit within a period of three months from the date of receipt of a copy of this order. Consequently, the connected miscellaneous petitions are also closed.

No costs.

19.02.2024

Index : Yes / No
Speaking order : Yes / No
Neutral Case Citation : Yes / No

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C.R.P.(NPD).Nos.258, 259 & 263 of 2021

S. SOUNTHAR. J.,

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C.R.P.(NPD).Nos.258, 259 & 263 of 2021
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19.02.2024