



C.R.P.D.No.395 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.10.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R.KALAIMATHI

C.R.P.D.No.395 of 2023

and

C.M.P.No.3350 of 2023

Pachiammal ... Petitioner/Petitioner/Defendant

**Vs.**

Thalamuthu ... Respondent/Respondent/Plaintiff

**PRAYER:** Civil Revision Petition is filed under Article 227 of the Constitution of India, against the Fair and Final Orders dated 28.03.2022 passed in I.A.No.3 of 2021 in O.S.No.156 of 2019 on the file of the Subordinate Judge, Mettur.

For Petitioner : Mr.R.Nalliyappan

For Respondent : Ms.S.Nandhini Devi

### **ORDER**

The defendant herein has preferred this Civil Revision Petition against the Order dated 28.03.2022 made in I.A.No.3 of 2021 in



C.R.P.PD.No.395 of 2023

WEB COPY

O.S.No.156 of 2019 on the file of the Subordinate Judge, Mettur.

2. Heard Mr.R.Nalliyappan, learned counsel appearing for the petitioner and Ms.S.Nandhini Devi, learned counsel appearing for the respondent.

3. Suit was filed for specific performance and for permanent injunction.

4. The petitioner is the defendant in the suit. The defendant herein had taken out an application under Section 5 of Limitation Act, r/w. Section 151 of CPC to condone the delay of 489 days in filing the application to set aside the exparte order.

5. It appears that before the Trial Court despite receipt of summons, the petitioner/defendant herein did not appear before the trial Court and hence, he was set exparte and exparte order was passed on 14.10.2019. Thereafter, the plaintiff had moved Execution Petition in E.P.No.3 of 2021 for execution of sale deed. In which, the



C.R.P.PD.No.395 of 2023

WEB COPY

petitioner/defendant herein entered appearance through an Advocate as counter was not filed, the Executing Court passed an order for draft sale deed on 05.04.2021. Meanwhile, this application was filed before the trial Court.

6. Law is well settled that in the application filed under Section 5 of the Limitation Act, reasons for delay have to be given in clear terms in the affidavit. In the petition, the defendant has stated that he has paid a part of sale consideration to the defendant (vendor) and he promised him that he will not proceed with the matter and hence, he did not contest the suit. These details have been refuted by the plaintiff. In the given circumstances, the reasons put-forth cannot taken to be an acceptable one. It was also stated that the trial Court executed the sale deed on behalf of the defendant in favour of the plaintiff and the possession is also taken over by the plaintiff. In such a view of the matter, I find no infirmity or perversity in the order of the trial Court.

7. Based on the afore said observations, this Civil Revision Petition stands dismissed. There is no order as to costs. Consequently,



C.R.P.PD.No.395 of 2023

WEB COPY

connected miscellaneous petition is closed.

**29.10.2024**

Index:Yes/No  
Speaking / Non-Speaking Order  
Neutral Citation Case:Yes / No  
ssn

To  
The Subordinate Judge,  
Mettur.



WEB COPY



C.R.P.PD.No.395 of 2023

R.KALAIMATHI, J.,

ssn

C.R.P.PD.No.395 of 2023  
and  
C.M.P.No.3350 of 2023



WEB COPY



C.R.P.PD.No.395 of 2023

29.10.2024