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C.R.P.(NPD)No.1446 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.04.2024

CORAM

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(NPD)No.1446 of 2024

and

C.M.P.No.7754 of 2024

1.M/s.V.D.R.Impex,
a firm represented by Partner,
Narayanan,
SIPCOT, Industrial Complex,
Ranipet – 632603 and residing at,
Door No.248, Officer Line,
Krishna Nagar, Vellore

2.Naryanan

3.Geethalakshmi

.. Petitioners

Vs.

M/s.Shaba Hides,
represented by its Proprietor,
KKSA.Mohamuda Ayisha,
Ameerunisa,
representing by her Power Agent,
S.A.K.A.Md. Bagar Ali,
Tanners and Manufactures of Finished
Leather doing business,
at Sathy-Bhavani Main Road, Naripallam,
Erode - 638004

.. Respondent



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Prayer : The Civil Revision Petition is filed under Article 227 of Constitution of India, to direct the learned Judge to dispose of the application in I.A.No.71 of 2020 in O.S.No.202 of 2015 pending on the file of the learned II Additional District Judge at Erode within a stipulated time.

For Petitioners : M/s.R.T.Sundari

ORDER

This Civil Revision Petition has been filed seeking direction to dispose of the application in I.A.No.71 of 2020 in unnumbered I.A.No. of 2017 in O.S.No.202 of 2015 on the file of the learned II Additional District Judge at Erode.

2. O.S.No.202 of 2015 is a suit for recovery of a sum of Rs.40,00,000/- (Rupees Forty Lakhs only) presented by the respondent herein as against the petitioners herein.

3. The respondent obtained an *ex parte* decree and to set aside the same, an application was taken out. That application was not represented which resulted in a delay of 710 days, constraining the petitioner to file I.A.No.71 of 2020.



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4. The said application for representation filed under Order IX Rule 13 of the Code of Civil Procedure has been adjourned from 09.03.2020 till date. Simultaneously, the respondent has proceeded with an Execution Petition. Hence, M/s.R.T.Sundari, appearing on behalf of the petitioners, would seek direction that the application be disposed of and the execution be stayed till then.

5. I have considered the submissions of M/s.R.T.Sundari.

6. The decree holder has obtained a decree as early as in the year 2017. An application was filed to set aside the *ex parte* decree in the year 2017, but it was not prosecuted till the year 2020. By the time the application to condone the delay in representation was filed, 710 days had passed on.

7. M/s.Sundari has rightly stated that the learned Judge is adjourning the matter awaiting the counter of the decree holder.

8. Therefore, I am inclined to give a direction to the learned II



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Additional District Judge at Erode to dispose of the application in I.A.No.71 of 2020 on or before 30.06.2024. I am not inclined to stay the execution pursuant to the decree in O.S.No.202 of 2015 since the petitioners themselves have not shown due diligence. It is for the petitioners to argue the application in I.A.No.71 of 2020 and get appropriate orders and thereafter, move an application for stay.

9. With the above directions, this Civil Revision Petition stands allowed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

10.04.2024

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Index:Yes/No

Speaking Order :Yes/No

Neutral Citation:Yes/No



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V. LAKSHMINARAYANAN, J.

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To

The II Additional District Court,
Erode

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and

C.M.P.No.7754 of 2024

10.04.2024