



C.R.P.(NPD).Nos.1113 and 1114 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(NPD).Nos.1113 and 1114 of 2021

and

C.M.P.No.8666 of 2021

Gyan Chand Chordia

... Petitioner (in both CRPs)

VS

Meera

... Respondent (in both CRPs)

Prayer: Civil Revision Petitions are filed under Article 227 of the Constitution of India, praying to set aside the order dated 23.03.2021 made in M.P.Nos.1 and 2 of 2021 in M.C.O.P.No.5720 of 2014 on the file of the VI Small Causes Court at Chennai by allowing these Civil Revision Petition.

For Petitioner : Mr.P.Krishnan
for M/s.Anand and Suryas
(in both CRPs)

For Respondent : M/s.A.Salomi
for M/s.A.Ajimath Begam
(in both CRPs)



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COMMON ORDER

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The Civil Revision Petition in C.R.P.(NPD).No.1113 of 2021 is filed challenging the order passed by the Trial Court rejecting the application filed by the petitioner to condone the delay of 913 days in filing a petition to set aside the *exparte* award passed against the petitioner/registered owner in motor accident claim petition in M.C.O.P.No.5720 of 2014 on the file of the VI Small Causes Court, Chennai.

2. In the affidavit filed in support of the condone delay petition, it was stated by the petitioner that he was registered owner of the offending vehicle and he sold the same to one Sivaprakash even before the accident. Therefore, he cannot be treated as a owner of the vehicle on the date of accident. It is further stated in the affidavit that after receipt of notice in motor vehicle claim petition, he engaged a counsel and filed vakalat. Thereafter, the above said Sivaprakash informed the petitioner that claimant undertook to withdraw the case filed by her. Believing his words, the petitioner failed to file counter. After receipt of notice in execution petition in December, 2019, the petitioner acquired knowledge about the *exparte* award passed against him and hence,



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filed a petition to set aside the *exparte* award along with the petition to condone delay in filing the petition seeking to set aside the *exparte* award passed on 23.03.2021.

3. The Trial Court in its order recorded that petitioner was represented by Advocate one P.Krishnan in execution proceedings and he undertook to file vakalat for petitioner in execution petition on 16.12.2019 itself. Thereafter, he failed to file vakalat for nearly two years. Subsequently, the petitioner was set *exparte* in execution petition also on 11.02.2021. Only after passing the order of attachment in execution petition, petitioner filed the instant application on 22.03.2021 to set aside the *exparte* award with condone delay petition.

4. The reason assigned by the petitioner in the affidavit as if, he believed the words of Sivaprakash cannot be accepted for the simple reason the petitioner received notice in execution petition on 19.12.2019 itself and one Advocate undertook to file vakalat on behalf of the petitioner in execution petition. Even after two years, there was no representation for him



in execution proceedings and he was also set *exparte* in execution petition on 11.02.2021. Only thereafter, the present application has been filed by the petitioner on 22.03.2021. Even in the affidavit filed by the petitioner, he admitted that he received notice in execution petition in December, 2019 itself. However, the present petition has been filed to set aside the *exparte* award only on 22.03.2021. When petitioner received notice in execution petition in December, 2019 itself, absolutely there is no explanation on his part for delay from December, 2019 to March, 2021. Further, admittedly, the petitioner is the registered owner of the vehicle, as soon as he received notice in main claim petition, he ought to have engaged his counsel and conducted his case. The affidavit sworn by the petitioner as if, he believed the words of the purchaser, who failed to effect name transfer is not at all acceptable to this Court. The reason given in affidavit is not sufficient to condone the huge delay of 913 days.

5. The petitioner pleaded that he had sold the vehicle to one Sivaprakash even before the accident. The petitioner also failed to produce any delivery note issued by Sivaprakash for having received vehicle from the



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petitioner. The liability of Registered Owner of Vehicle is well settled. In such circumstances, the petitioner has not made out any case to interfere with the orders passed by the Court below and accordingly, the Civil Revision Petition in C.R.P.(NPD).No.1113 of 2021 is dismissed.

6. In view of the order passed in C.R.P.(NPD).No.1113 of 2021, C.R.P.(NPD).No.1114 of 2021, which is filed challenging the dismissal of the petition to set aside the *exparte* award is also dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

26.02.2024

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

To

The VI Small Causes Court,
Chennai.



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S.SOUNTHAR, J.

dm

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