



C.R.P.(NPD) No.5095 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 11.12.2024

CORAM

THE HON'BLE JUSTICE N.SATHISH KUMAR

C.R.P.(NPD) No.5095 of 2024
and C.M.P.No.28556 of 2024

Srinivasa Rao @ Sudalagunda Srinivasa Rao

... Petitioner/Respondent/Plaintiff

-vs-

Y.Chinnaiah (Died)

1. Ravanamma

2. Raju

... Respondents/Petitioners/Defendants

Prayer: Civil Revision Petition filed under Section 115 of the CPC to set aside the Fair and Decretal Order dated 10.09.2024 passed in I.A.No.3 of 2024 in O.S.No.2455 of 2018 by the XXII Assistant Judge, City Civil Court, Chennai and thereby allow the Civil Revision Petition.

For Petitioner : Mr.J.Kannan

ORDER

Challenging the impugned order, allowing the petition filed by the respondents to deposit the decretal amount of Rs.14,00,000/- to the credit of O.S.No.2455 of 2018, the present revision petition has been filed.

2. Notice to the respondents is dispensed with, as no adverse



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order is going to be passed against them.

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Brief background of the case:

3. Originally, a suit in O.S.No.2455 of 2018 had been filed for declaration and recovery of possession. In the said suit, a Joint Compromise Memo dated 18.11.2022 was filed by both parties, wherein it was agreed that defendants pay Rs.14,00,000/- to the plaintiff on or before 31.03.2023. However, as the amount has not been paid within time, an application has been taken out before the Trial Court in I.A.(SR) No.32250 of 2023 for enlargement of time under Section 148 of CPC. The said application was dismissed by the Trial Court even before numbering the application on 30.06.2023 itself, as against which, a Civil Revision Petition had been filed before this Court in C.R.P.No.3017 of 2013 and this Court, by an order dated 04.10.2023, directed the Trial Court to extend the time to deposit the decretal amount.

4. In consequence of the said order, the application in I.A.(SR) No.32250 of 2023 was numbered as I.A.No.2 of 2023. By an order dated 05.01.2024, the Trial Court granted one month's time for payment of the



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agreed amount of Rs.14,00,000/-. The respondents accordingly had taken a Demand Draft bearing No.366594 dated 04.08.2023 drawn on Indian Bank, Royapuram Branch. As the said Demand Draft has been refused to be accepted by the plaintiff, an application had been taken out by the respondents to deposit the amount. The Trial Court, considering the fact that Demand Draft had been taken within time and also the fact that the same had been returned by the plaintiff, allowed the application. Challenging the same, this Civil Revision Petition has been filed.

5. Learned counsel for the petitioner submitted that already an application had been filed and the said amount has not been paid in time as per the agreed terms in the compromise memo.

6. I have perused the material documents available on record.

7. Admittedly, a Compromise Decree had been passed, wherein it was agreed by the defendants to pay Rs.14,00,000/- on or before 31.03.2023. As the amount has not been paid within time, an application in



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I.A.No.2 of 203 has been taken out, seeking enlargement of time, which was allowed on 05.01.2024, granting one month's time. In compliance of the said order, a Demand Draft has been taken and revalidated on 04.11.2023 and when the said Demand Draft was sent to the plaintiff, it has been returned on 29.01.2024.

8. The defendants, having left with no other option, filed an application, which stood allowed. When the order of the Court has been complied with in time and one of parties has been purposely evading to receive the payment to take advantage of the decree passed, in view of the default clause in the compromise memo, this Court is of the view that the unjust enrichment cannot be allowed to be taken by one of the parties, especially when the payment has been made within the extended time granted by the Court.

9. Hence, finding no merits in the argument advanced by the learned counsel for the revision petitioner, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is



closed.

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Index: Yes/No

Internet: Yes/No

Speaking Order/Non Speaking Order
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To:

XXII Assistant Judge,
City Civil Court,
Chennai.



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N.SATHISH KUMAR,J.,



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