



C.R.P.(MD)No.361 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.11.2024

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

C.R.P.(MD)No.361 of 2021
and C.M.P.(MD).No.2037 of 2021

R.Ponnusamy ... Petitioner/Petitioner/Defendant

Vs.

B.Murugan ... Respondent/Respondent/Plaintiff

PRAYER : Civil Revision Petition is filed under Section 115 of Civil Procedure Code, to set aside the petition and order passed in I.A.No.148 of 2017 in O.S.No.111 of 2015 on the file of the Sub Court, Veda sandur, dated 24.10.2017.

For Petitioner : Mr.T.Lenin Kumar

For Respondents : Mr.N.Marimuthu for Mr.A.Chandrakumar

ORDER

This civil revision petition has been filed to set aside the petition and order passed in I.A.No.148 of 2017 in O.S.No.111 of 2015 on the file of the Sub Court, Veda sandur, dated 24.10.2017.



C.R.P.(MD)No.361 of 2021

2.The facts in brief:

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Suit in O.S.No.111 of 2015 was filed by the respondent herein for recovery of Rs.5 lakhs, based upon the pronote with interest and costs.

3.The defendant is the revision petitioner herein filed a written statement on 27.06.2017. Thereafter, remained exparte. So exparte decree was passed on 05.03.2016. To set aside the exparte decree and judgment, there was a delay of 381 days. Stating that the exparte decree came to his notice only when he received notice in E.P.No.138 of 2016, he filed the petition to condone the above said delay. Even though he engaged advocate, there was no proper communication from him. Moreover, he was affected by jaundice and he could not contact his advocate, who appeared before the trial Court.

4.That was resisted by the respondent herein and filed counter. After hearing both sides, the trial Court by the order dated 24.10.2017, dismissed the petition. Against which, this revision is preferred.



C.R.P.(MD)No.361 of 2021

5. Before we go into the merits of the matter, the conduct of the revision petitioner requires to be placed on record. When the matter was called on 06.11.2024, it is submitted before the Court that the matter is going to be compromised between the parties. So it was called on 11.11.2024. When the matter was called on that date, it was submitted by the counsel for the revision petitioner that the matter has been compromised between the parties out the court. So it was dismissed as infructuous. But, later at about 12.30 p.m., the learned counsel for the respondent turned up and submitted that there was no settlement between the parties. A wrong representation was made by the learned counsel for the revision petitioner. In view of the above said, the order of dismissal was recalled on the very same day and ordered to be listed for hearing on 18.11.2024.

6. Again when the matter was called on 18.11.2024, it was submitted by the counsel for the revision petitioner that the matter was referred by an advocate from the trial Court and according to the information furnished by him only, he made a statement before this Court. The respondent was present before this Court on 18.11.2024 and



C.R.P.(MD)No.361 of 2021

has further stated that the counsel for the revision petitioner asked him not to attend the Court on the date. So considering the seriousness of the allegation, the revision petitioner and Mr.Asaithambi, who referred to the matter to the counsel on record before this Court were directed to be present. They were present before the Court on 27.11.2024. Enquiry was made by this Court with both parties. It appears that the revision petitioner has given a wrong information to Mr.Asaithambi, who in turn passed the wrong information to the counsel on record for the revision petitioner before this Court.

7.The conduct of the revision petitioner was contemned and he was directed to be more careful in future while making submissions before the Court. The conduct on the part of the revision petitioner is sufficient enough to say that the grounds made by him before the trial Court is also not genuine one. So on those grounds the revision fails and order of dismissal passed by the trial Court is confirmed.



C.R.P.(MD)No.361 of 2021

8. Accordingly, this civil revision petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

28.11.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

1. The Subordinate Judge, Vendasandur.
2. The Section Officer, E.R. Section/V.R. Section,
Madurai Bench of Madras High Court, Madurai.



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C.R.P.(MD)No.361 of 2021

G.ILANGO VAN,J.

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C.R.P.(MD)No.361 of 2021

28.11.2024