



C.R.P(MD).No.2398 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 07.11.2024

CORAM :

THE HONOURABLE Mr. JUSTICE G.ILANGO VAN

**C.R.P(MD)No.2398 of 2022
and
C.M.P(MD)No.11592 of 2022**

Stalin @ Stalin Jayachandran

... Petitioner / Defendant

Vs

Sampoorna Aqua Agencies
represented by its Managing Partner,
B.Jayaraman

... Respondent / Plaintiff

Prayer : Civil Revision Petition is filed under Section 115 of C.P.C., Constitution of India, to set aside fair and decreetal order dated 01.07.2022 made in I.A.No.320 of 2021 in O.S.No.107 of 2020 on the file of the Principal District Judge, Thanjavur by allowing this revision petition.

For Petitioner : Mr.K.Suyambulinga Barathi

For Respondent : Mr.P.Vadivel



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ORDER

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This Civil Revision Petition is filed to set aside fair and decreetal order dated 01.07.2022 made in I.A.No.320 of 2021 in O.S.No.107 of 2020 on the file of the Principal District Judge, Thanjavur.

2. The facts in brief is that the suit in O.S.No.107 of 2020 was filed by the respondent herein against the revision petitioner for recovery of a sum of Rs.81,44,002.00 with subsequent cost and interest. The revision petitioner did not receive notice / summon. Therefore, he failed to appear before the trial Court and so an ex parte decree was passed without verifying whether private notice was properly served upon him. Setting out the above said fact, he filed an I.A.No.320 of 2021 to set aside the ex parte decree dated 20.09.2021. That application was dismissed by the trial Court on 01.07.2022 in I.A.No.320 of 2021. Against which this Civil Revision Petition is preferred.

3. Learned counsel for the petitioner would submit that as stated in the petition, without properly verifying the service of notice, an ex parte decree was passed. He got valid defence to be made and so he must be given opportunity. However, the Hon'ble Supreme Court of India in the



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judgment reported in *2023 LiveLaw (SC) 1056* in the case of *The Koushik Mutually aided Cooperative Housing Society Vs Ameena Begum and another*, clarified the position that against the order passed in Order 9 Rule 13 only an appeal will lie, since it is an appealable order, no revision is entertainable.

4. In view of the above said clarification, now the revision is not maintainable. Ofcourse, liberty is granted to the revision petitioner to file proper appeal. At the time of filing the appeal, the time spent by the petitioner in prosecuting this matter may be deleted as per Section 14 of the Limitation Act, since a bonafide attempt has been made by the petitioner in prosecuting the matter.

5. With this liberty, this Civil Revision Petition is dismissed. No costs. No costs. Consequently, connected miscellaneous petition stands closed.

07.11.2024

NCC :Yes/No
Index :Yes/No
Internet : Yes/ No
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G.ILANGO VAN, J.

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To

- 1.The Principal District Judge, Thanjavur.
- 2.The Section Officer, VR Section,
Madurai Bench of Madras High Court, Madurai.

ORDER
IN
C.R.P(MD)No.2398 of 2022
and
C.M.P(MD)No.11592 of 2022

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