



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.10.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.R.P(MD)No. 2769 of 2024

and

C.M.P(MD)No. 15663 of 2024

R.Murugesan

...Petitioner

Vs.

A.Dhilsath Banu

... Respondent

PRAYER: Civil Revision Petition is filed under Section 115 of Civil Procedure Code, to set aside the Fair and Decretal Order, dated 27.02.2024 passed in I.A.No.1 of 2021 in O.S.No.211 of 2018 on the file of the Principal Sub Court, Dindigul.

For Petitioner : M.P.Senthil

ORDER

This Civil Revision Petition is filed by the plaintiff to set aside the Fair and Decretal Order, dated 27.02.2024 passed in I.A.No.1 of 2021 in O.S.No. 211 of 2018 on the file of the Principal Sub Court, Dindigul.



WEB COPY

2. The plaintiff in the suit is the revision petitioner herein and the defendant in the suit is the respondent herein. For the sake of convenience, the parties are referred to as plaintiff and the defendant as per the ranking in the suit.

3. The plaintiff has filed a suit in O.S.No.211 of 2018 for specific performance. The defendant was set exparte and an exparte decree was passed. In the meanwhile, the plaintiff had filed the execution petition. Thereafter the defendant had filed a petition to set aside the exparte decree along with an application to condone the delay of 1003 days. After hearing the same the Trial Court had allowed the petition filed by the defendant by imposing cost of Rs. 5000/-. Aggrieved over the same the plaintiff had filed the present Civil Revision Petition.

4. The contention of the plaintiff is that the defendant had not explained each and every day delay and the reasons stated in the petition is not acceptable, but the Trial Court had allowed the petition which is against the judgments of Hon'ble Supreme Court and High Court.



WEB COPY

5. It is seen that the suit is filed for specific performance, the sale agreement was entered on 06.03.2015 with sale consideration of Rs.2,35,000/- and the plaintiff has paid Rs.2,10,000/-and the balance of Rs.25,000/- is payable within a period of 3 years. The contention of the plaintiff is that the defendant has orally agreed to vacate the premises and hand over the building. But the contention of the defendant is that the said transaction is a loan transaction. All these facts ought to be proved through documents and examination of witness.

6. This Court is of the considered opinion the defendant ought to be granted an opportunity. Further there is no infirmity in the impugned order passed by the Trial Court. Therefore, this Court is not inclined to entertain this Civil Revision Petition.

7. Accordingly, this Civil Revision Petition is dismissed. The Principal Sub Judge, Dindigul, is directed to take the suit in O.S.No.211 of 2018 on file and complete the proceedings, within a period of 8 months from the date



WEB COPY

of receipt of copy of this order. No Costs. Consequently, connected miscellaneous petition is closed.

30.10.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
KSA



WEB COPY



To

1. The Principal Sub Court, Dindigul.
2. The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



S.SRIMATHY, J.

KSA

Order made in
C.R.P(MD)No.2769 of 2024

30.10.2024