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CRP Nos. 86 and 88 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.04.2025

CORAM

THE HONOURABLE MR JUSTICE A.D.JAGADISH CHANDIRA

CRP Nos. 86 and 88 of 2024 and

CMP Nos. 349, 355 & 12389 of 2024

P.Krishnan, S/o Periyanna Gounder,
M.Kalipatty Village, Kalipatty Post,
Mettur Taluk, Salem District.

Petitioner in both CRPs.

Vs.

K.Sengondan, S/o Kandasamy, No.2/3-28,
New Colony, Kunjandiyur, Konur Post,
Mettur Taluk, Salem District

Respondent in both CRPs.

Prayer: C.R.P. No. 86 of 2024 is filed under Article 227 of Constitution of India praying to set aside the fair and decretal order dated 20.10.2023 in I.A. No. 1 of 2023 in O.S. No. 138 of 2015 on the file of Sub Court Mettur.

Prayer: C.R.P. No. 88 of 2024 is filed under Article 227 of Constitution of India praying to set aside the fair and decretal order dated 20.10.2023 in I.A. No. 2 of 2023 in O.S. No. 138 of 2015 on the file of Sub Court Mettur.

For Petitioner(s) : Mr.K.Selvaraj
in both CRPs.

For Respondent(s) : Mr.D.Veerasekaran
in both CRPs.



CRP Nos. 86 and 88 of 2024

COMMON ORDER

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These Civil Revision Petitions have been filed seeking to set aside the fair and decretal Orders dated 20.10.2023 in I.A. Nos.1 of 2023 and 2 of 2023 in O.S. No. 138 of 2015 on the file of Sub Court, Mettur.

2. The Petitioner and the Respondent in both Civil Revision Petitions are one and the same. The Petitioner is the Defendant and the Respondent is the Plaintiff in O.S. No.138 of 2015. The Petitioner is doing transport business, operating two mini buses and had intended to sell the same. Thereby, the Respondent/Plaintiff had approached the Petitioner/Defendant for purchase of the said mini buses for a consideration of Rs.28,20,000/- and had entered into a Sale Agreement on 18.12.2013 and the Respondent/Plaintiff had paid a sum of Rs.3,00,000/- as advance. However, the Petitioner/Defendant had neither handed over the buses nor repaid the advance amount. Thereby, the Respondent/Plaintiff had filed O.S. No. 138 of 2015 on the file of Sub Court, Mettur, for recovery of sum of Rs.3,00,000/- with subsequent interest at the rate of 24% per annum from 18.12.2013 till the date of realisation.



CRP Nos. 86 and 88 of 2024

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4. The learned counsel for the Petitioner submitted that the trial court, without there being any sufficient cause shown by the plaintiff and without properly calculating the number of days of delay, had allowed the Petitions. He further submitted that the trial court erred in leniently allowing the applications by considering the age of the respondent



CRP Nos. 86 and 88 of 2024

whereas the respondent was aged only 61 Years and that the trial court ought to have seen the conduct of the Plaintiff in protracting the case. He also submitted that the trial court had allowed the application despite no evidence being shown to prove his ailment and thereby, he would seek to set aside the order passed and allow the Civil Revision Petition.

5.Per contra, learned counsel for the Respondent would submit that the Respondent/Plaintiff and the Revision Petitioner/Defendant had entered into Sale Agreement for a consideration of Rs.28,20,000/- on 18.12.2013 for purchase of the mini buses and the Respondent/Plaintiff had paid a sum of Rs.3,00,000/- as advance, and since the Petitioner/Defendant did not repay the advance amount, the Respondent/Plaintiff had filed the suit. He would further submit that the respondent is a Senior Citizen and he is suffering from age related ailments and due to Covid-19 Pandemic he did not appear before the Court. He would further submit that the trial Court rightly found that sufficient cause is shown to allow the applications and he also deposited the cost as ordered while allowing the applications.



CRP Nos. 86 and 88 of 2024

6. Heard the learned counsel for the Petitioner and the Respondent and perused the materials available on record.

7. Though the delay in filing the petition to restore the suit is 922 days, the trial court finding that the respondent/plaintiff shown sufficient cause, had allowed the application on condition to pay cost. This Court does not find any infirmity in the finding of the trial court and thereby, this Court is not inclined to interfere with the impugned orders. However, this Court is of opinion that in the event of the respondent/plaintiff succeeding in the suit, the respondent/plaintiff shall not be entitled for interest for the period between 19.08.2019 to 20.10.2023 on account of the lapses on his part.

8. With the above directions, the Civil Revision Petitions stand disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

15-04-2025

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To
The Subordinate Judge, Mettur.



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A.D.JAGADISH CHANDIRA, J.

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