

IN THE COURT OF THE SUBORDINATE JUDGE ERANIEL

Present: Thiru.K. SELVAPANDI, B.A., B.L.,

Sub Judge, Eraniel

Friday, the 23rd day of June 2023

E.A.No. 1/2023

in

E.P.No.74/2022

in

Arbitration Case No.16/2021

Maria Rethinammal

..Petitioner/Judgment Debtor

//Versus//

Kurunji Nidhi Ltd.,
Rep. by its Power of Attorney Holder
P. Imman Singh

..Respondent/Decree Holder

This petition coming on for final hearing before me on 02.06.2023 in the presence of Thiru.T.M. Suresh Thankam Advocate for the petitioner and of Thiru. Beslin Jegadheese, Advocate for the respondent and upon hearing both sides and upon perusing the documents and having stood over for my consideration till this day, this Court delivered the following:

ORDER

This is a petition filed by the petitioner/judgment debtor under Order 21 Rule 106 CPC seeking to set aside the exparte order passed against him on 21.01.2023.

2. Admittedly the respondent/decreed holder filed the main execution petition seeking to execute the decree for attachment sale of property. Notice was served on the petitioner herein who was the respondent in the main execution petition and since the petitioner herein who was the respondent in the main execution petition failed to appear on 21.01.2023 even though the notice was duly served on him, he was called absent and decided ex parte and the main execution petition was posted for ex parte enquiry. Now the petitioner has filed this petition on 03.02.2023 stating that since he was affected by ill-health he was unable to appear before this court on 21.01.2023.

3. The respondent/decreed holder resisted the application by filing counter on the ground that the petition is not filed with valid reason and that the petitioner is a habit of dragging on the case and that the set aside petition could not be taken into account since the petitioner has not explained the non appearance with the valid reasons.

4. Considering the fact that the petitioner was decided ex parte on 21.01.2023 and this petition was filed in time on 03.02.2023. i.e on the very next hearing itself, this court is of the view that the reason stated by the petitioner is satisfactory. Hence in the interest of justice and in order to give one more opportunity to the respondent to contest the case on merits, this petition can be allowed. No prejudice will be caused to the respondent if the delay in proceeding is compensated by way of cost.

In the result, this petition will be allowed on payment of cost of Rs.1000/- to be paid by the petitioner to the respondent on or before 30.06.2023. Call on 01.07.2023.

Dictated by me to the Steno-typist and typed by her in the computer, corrected and pronounced by me in open court, this the 23rd day of June 2023.

**Subordinate Judge,
Eraniel.**