

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.06.2015

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(NPD)No.1667 of 2015

G.V.Natarajan

... Petitioner

v.

R.Umarani

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and order dated 18.11.2014 passed in I.A.No.16035 of 2013 in O.S.No.9901 of 2009 on the file of XIII Assist Judge, City Civil Court, Chennai.

For Petitioner : Mr.D.Magesh

O R D E R

Challenging the fair and final order passed in I.A.No.16035 of 2013 in O.S.No.9901 of 2009 on the file of XIII Assist Judge, City Civil Court, Chennai the defendant has filed the above Civil Revision Petition.

2. The plaintiff filed the suit in O.S.No.9901 of 2009 for recovery of money together with interest. When the suit was taken up for trial, since the defendant remained ex parte, the trial court passed an ex parte decree. Thereafter, the defendant filed an application in I.A.No.16035 of 2013 to condone the delay of 830 days in filing the application to set aside the ex parte decree. However, the trial court found that there is a delay of 1026 days in filing the application to set aside the ex parte decree.

3. In the affidavit filed in support of the application, the defendant has stated that he was hospitalized in A.K.N. Nursing Home, No.20, Kelly's Road, Kilpauk, Chennai – 600 010 from 17.01.2008. Hence, there is a delay in filing the application. The ex parte decree was passed on 29.01.2000. The present application to set aside the ex parte decree was filed by the defendant on 11.10.2013.

4. When it is the case of the defendant that he was hospitalized for nearly 3 years, he should have produced necessary documents to establish

the averments stated in the affidavit filed in support of the application. However, the defendant has not produced even a single document to show that he was hospitalized for nearly 3 years. In the absence of any evidence, the trial court has rightly dismissed the application.

5. In these circumstances, I do not find any error or irregularity in the order passed by the trial court. The Civil Revision Petition is devoid of merits and is liable to be dismissed. Accordingly, the Civil Revision petition is dismissed. No costs.

01.06.2015

Index : No
Internet : Yes

Rj

To

The XIII Assist Judge,
City Civil Court,
Chennai

M. DURAISWAMY,J.,

Rj

C.R.P.(NPD)No.1667 of 2015

01.06.2015