

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.04.2015

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(NPD)No.1811 of 2015 &

M.P.No.1 of 2015

Velvizhi

... Petitioner

v.

1.Chengeni Ammal (died)

2.Dr.M.A.S.Subramanian

3.Rani Mangammal

4.Unnamalai @ Manimegalai

5.T.Thiagarajan

6. Vendarkuzhili @ Dravidam (deceased)

... Respondents

Civil Revision Petition filed under section 115 of the Code of Civil Procedure, against the order dated 25.9.2014 made in I.A.No.182 of 2011 in O.S.No.3 of 1996 on the file of Principal District Judge, Puducherry.

For Petitioner : Mr.R.Subramanian

ORDER

Challenging the fair and final order passed in I.A.No.182 of 2011 in O.S.No.3 of 1996 on the file of Principal District Court, Puducherry, the first plaintiff has filed the above Civil Revision Petition.

2. The plaintiffs filed the suit in C.S.No.352 of 1985 originally before

this court which was transferred and renumbered as O.S.No.3 of 1996 on the file of Principal District Court, Puducherry. On 3.6.1997, since the plaintiffs did not appear before the Trial Court, the Trial court dismissed the suit for default. Thereafter, after a lapse of 15 years, the first plaintiff filed an application in I.A.No.182 of 2011 to condone the delay of 4869 days in filing the application to restore the suit in O.S.No.3 of 1996, which was dismissed for default on 3.6.1997. In the affidavit filed in support of the application, the first plaintiff has stated that she was assured by the fifth respondent, who being the husband of her sister-in-law, that he would take care of her interest in the case. The first plaintiff having filed the suit as against the fifth respondent, she cannot expect him to take of her interest. In the affidavit filed in support of the application, she has also stated that she came to know about the dismissal of the suit in the year 2010 and subsequently she has filed the present application to condone the delay of 4869 days to restore the suit. The said application was strongly opposed by the defendants. In the absence of any acceptable reasons given by the first plaintiff, the Trial Court dismissed the application.

3. The Hon'ble Apex Court as well as this court in various judgments repeatedly held that in the absence of any sufficient cause given by the petitioner, the delay need not be condoned.

4. In the case on hand, the suit was dismissed for default on 3.6.1997

and in the affidavit filed in support of the application, the petitioner has stated that she came to know about the dismissal of the suit only in the year 2010. The very conduct and attitude of the petitioner itself would establish that she was not diligent enough in prosecuting the matter in a proper manner. Even to ascertain the pendency of the suit, she took 13 years. The lethargic attitude of the petitioner cannot be condoned. Since the petitioner has not given any acceptable reason to condone the delay of 4869 days, the Trial Court has rightly dismissed the application.

5. In view of the above, I do not find any reason to interfere with the fair and final 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. Consequently, connected miscellaneous petition is closed. No costs.

27.04.2015

Index : No
Internet : Yes

Rj

To

The Principal District Court,
Puducherry

M. DURAISWAMY,J.,

Rj

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