

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.07.2015

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAIWAMY

**C.R.P.(NPD).No.3760 of 2011
and M.P.No.1 of 2011**

Smt.Lalitha Sayanam

... Petitioner

Vs.

M.George Rajkumar

... Respondent

Civil Revision Petition filed under Section 115 of the Civil Procedure Code against the order dated 25.07.2011 in I.A.No.161 of 2011 in O.S.No.83 of 2005 on the file of the District Munsif Court, Nilgiris at Udagamandalam.

For Petitioner : Mr.R.Subramanian

For Respondent : Mr.S.K.Rakhunathan

ORDER

Challenging the fair and decreetal order passed in I.A.No.161 of 2011 in O.S.No.83 of 2005 on the file of the District Munsif Court, Nilgiris at Udagamandalam, the defendant has filed the above Civil Revision Petition.

2.The plaintiff filed the suit in O.S.No.83 of 2005 for permanent injunction restraining the defendant from dispossessing him except under due process of law. Since the defendant failed to appear before the trial

Court, an ex-parte decree was passed on 19.04.2005. Thereafter, the defendant filed an application in I.A.No.161 of 2011 to condone the delay of 2065 days in filing the petition to set aside the ex-parte decree. In the affidavit filed in support of the petition, the defendant has stated that the plaintiff is a tenant under her and that the lease was terminated in December 2005 and the plaintiff also agreed to vacate the suit property in the month of December 2005. After the termination of lease, according to the defendant, she entered into possession of the suit property in January 2006 and cultivating crops in the suit property. On 23.03.2005, the defendant was called absent and an ex-parte decree was passed on 19.04.2005. Pursuant to the decree passed in the suit, the plaintiff filed an Execution Petition in E.P.No.54 of 2006. Narrating the reasons, the defendant has filed the application to condone the delay of 2065 days. The plaintiff filed his counter wherein he has stated that the reasons stated in the affidavit cannot be believed for the reason that the Execution Petition was filed in the year 2006 and the defendant has filed the present application only in the year 2011. The trial Court, taking into consideration the case of both parties, dismissed the application stating that the defendant has not stated any acceptable reason for condoning the long delay.

3. On a perusal of the affidavit filed in support of the petition, it is clear that the defendant has not given any acceptable reason for condoning the inordinate delay of 2065 days in filing the petition to set aside the ex-parte decree.

4. As rightly pointed out by the learned counsel for the respondent, though the Execution Petition was filed in the year 2006, the defendant chose to file the present application to set aside the ex-parte decree only in the year 2011. The reason for not filing the application at the earliest point of time was not properly explained by the defendant. In the absence of any acceptable reason given by the defendant to condone the inordinate delay on 2065 days, the trial Court has rightly dismissed the application.

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

Index : No
Internet : Yes
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03.07.2015

M.DURAIWAMY,J.
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To

The District Munsif Court,
Nilgiris at Udagamandalam.

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and M.P.No.1 of 2011

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