

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.08.2015

CORAM:

THE HON'BLE MR. JUSTICE D.HARIPARANTHAMAN

C.R.P.Nos.3149 & 3150 of 2015

and

M.P.Nos.1 & 1 of 2015

C.R.P.No.3149/2015

Selvaraj

...Respondent/Defendant/Petitioner

Vs.

Vaithyanatha Udayar

...Petitioner/Plaintiff/Respondent

Prayer:

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 05.09.2011 made in I.A.No.2754 of 2008 in Unnumbered O.S. Of 2011 on the file of the Principal District Munsif Court, Kallakurichi.

C.R.P.No.3150/2015

Selvaraj

...Respondent/Defendant/Petitioner

Vs.

Vaithyanatha Udayar

...Petitioner/Plaintiff/Respondent

Prayer:

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 30.09.2011 made in I.A.No.2755 of 2008 in Unnumbered O.S. Of 2011 on the file of the Principal District Munsif Court, Kallakurichi.

For Petitioners
in both CRP's : Mr.P.Valliappan

C O M M O N O R D E R

The revision petitioner herein is the defendant in an unnumbered suit on the file of the Principal District Munsif Court, Kallakurichi.

2. The respondent herein had filed the said suit in the year 2005 for recovery of money based on the promissory note. However, the suit papers were returned to rectify the defects and to resubmit the same within a stipulated period. However, no immediate steps was taken and in the mean time, there occurred a delay of 1220 days in representing the plaint. Hence, the respondent herein who is the plaintiff filed an application in I.A.No.2754 of 2008 in the unnumbered original suit to condone the delay of 1220 days in representing the suit.

3. The plaintiff also filed another application in I.A.No.2755 of 2008 to condone the delay in payment of deficit Court fee. Both the applications in I.A.Nos.2754 and 2755 of 2008 were allowed by the Trial Court by a common order dated 05.09.2011 on payment of costs of Rs.2,500/- on or before 12.09.2011. The aforesaid order is questioned by the defendant, who is the revision petitioner in both the Civil Revision Petitions.

4. Heard the learned counsel appearing for the petitioner.

5. The learned counsel for the revision petitioner would vehemently contend that the Trial Court should not have allowed the applications, particularly when there is a huge delay of 1220 days and the said delay was not properly explained.

6. I have perused the order. The advocate, who originally filed the case, died on 26.05.2006. To prove the same, one Advocate Kurinjikumaran was examined as P.W.2, while the respondent was examined as P.W.1. After the death of the advocate, it seems that the bundle was handed over. However, there was still delay in representation. Hence, the Trial Court thought it fit to compensate the revision petitioner by way of ordering costs.

7. Likewise, at the time of filing of the suit, it was filed with deficit Court fee. The application that was filed to condone the delay in payment of deficit Court fee was also allowed on payment of costs. Ultimately, an order was passed by the Trial Court directing the respondent herein to pay costs of Rs.2,500/- to the revision petitioner to allow those applications.

8. Considering the aforesaid facts and circumstances, I am of the view that there is no infirmity in the order of the Trial Court in allowing the applications filed by the respondent/plaintiff. Hence, I am not inclined to interfere with the order of the Trial Court and consequently, the Civil Revision Petitions are dismissed. Connected, miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

pgp

To

The Principal District Munsif,
Kallakurichi.

2 CCs to Mr.P.Valliappan, Advocate SR.No. 40980

C.R.P.Nos.3149 & 3150 of 2015

AK (CO)
PSI (25.08.2015)

सत्यमेव जयते

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