

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.09.2015

CORAM

THE HONOURABLE MR.**JUSTICE D.HARIPARANTHAMAN**

C.R.P (NPD) No.3678 of 2015

and M.P.No.1 of 2015

Lakshmikantham

... Petitioner

VS.

Donald Wilcox

.... Respondent

Civil revision petition has been filed as against the fair and decretal order dated 2.6.2015 made in I.A.No.915 of 2014 in O.S.No.12 of 2012 on the file of the Court of the learned Subordinate Judge, Poonamallee.

For petitioner : Mr.K.A.Ramakrishnan

For respondent : Ms.K.Jayakarthiga

ORDER

The revision petitioner is the plaintiff in O.S.No.12 of 2012 on the file of the learned Subordinate Judge, Poonamallee. The respondent herein is the defendant therein. It is a suit for specific performance. Admittedly, the suit was decreed exparte on 14.8.2013.

The respondent / defendant filed an application in I.A.No.914 of 2014 in O.S.No.12 of 2012 to condone the delay of 352 days in filing the petition to set aside the exparte decree. The Trial Court passed an order dated 2.6.2015 in I.A.No.914 of 2014 in O.S.No.12 of 2012 by condoning the delay of 352 days on payment of cost of Rs.2,000/-. The present revision is against the aforesaid order dated 2.6.2015 made in I.A.No.914 of 2014 in O.S.No.12 of 2012.

2. I have heard the learned counsel appearing for the petitioner.

3. Learned counsel appearing for the petitioner submitted that based on the exparte decree, the revision petitioner filed E.P.No.54 of 2014 and no reason was given by the respondent / defendant for the inordinate delay of 352 days in filing the petition to set aside the exparte decree. Hence, the Trial Court committed an error in allowing the application.

4. I have considered the submissions made by the learned counsel appearing for the petitioner and perused the order dated 2.6.2015 made in I.A.No.914 of 2014 in O.S.No.12 of 2012.

5. Taking note of the facts of the case, the Trial Court felt

that a reasonable opportunity has to be given to the respondent / defendant to contest the suit on merits and passed an order allowing the application on payment of cost of Rs.2,000/-. I am not inclined to interfere with the order of the Trial Court. Hence, the civil revision petition fails and the same is dismissed. However, while dismissing the civil revision petition, taking note of the fact that the suit is of the year 2012 and now the written statement is also filed, a direction is issued to the learned Subordinate Judge, Poonamallee to dispose of the suit in O.S.No.12 of 2012 within a period of six months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

16.09.2015

Index:Yes
sbi

To

The Subordinate Judge,
Poonamallee.

D.HARIPARANTHAMAN,J.

sbi

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