

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.09.2015

CORAM

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

C.R.P.(NPD)No.3750 of 2015 and
M.P.No.1 of 2015

1.M.Pratapkumar
2.Dinesh K.Shah
3.Rosy Tower Owners Association
Rep. by its Secretary ... Petitioners

vs.

1.K.C.D.George
2.Anand George
3.Anitha George
4.P.J.Babu ...Respondents

Civil Revision Petition filed under Section 115 of the Code of Civil Procedure against the order and decretal order dated 17.04.2015 and made in I.A.No.18201 of 2012 in O.S.No.9551 of 2010 passed by the IV Additional Judge, i/c VI Additional Court, Chennai.

For Petitioners : Mr.V.Bhiman for
M/s.Sampathkumar and Associates

ORDER

The revision petitioners are the defendants in O.S.No.9551 of 2010 on the file of IV Additional Judge, City Civil Court, Chennai. The details of the suit are not necessary for the disposal of this revision petition.

2. The suit was initially filed before this Court in C.S.No.972 of 2007 and subsequently, it was transferred to VI Additional City Civil Court and re-numbered as O.S.No.9551 of 2010. The revision petitioners remained ex parte and an ex parte decree was passed on 07.09.2011.

3. The revision petitioners filed I.A.No.18201 of 2012 to condone the delay of 416 days in filing the petition to set aside the ex parte decree dated, 07.09.2011 passed in O.S.No.9551 of 2010. The Trial Court rejected the said application in I.A.No.18201 of 2012 on 17.04.2015. Hence, this revision petition.

4. The learned counsel for the revision petitioners strenuously contended that they entrusted the matter to an Advocate and his junior misplaced the bundle and hence, there was a delay. He has also taken me through the affidavit as well as better affidavit filed in this regard.

5. I have considered the submissions made by the learned counsel for the petitioners.

6. While I.A.No.18201 of 2012 was decided, the revision petitioners have not chosen to let in evidence or mark any document to establish that the bundle was misplaced by the junior Advocate. The name of the junior Advocate was also not mentioned in the affidavit. I am of the view that an

affidavit from the junior Advocate has to be filed stating that the bundle was misplaced by him. By merely stating that bundle was misplaced by Junior Advocate, the revision petitioners could not seek to condone the delay.

7. I do not find any infirmity in the order passed by the Trial Court. The Civil Revision Petition fails and accordingly, the same stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

16.09.2015

Index : Yes/No
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To
The IV Additional Judge, i/c VI Additional Court, Chennai.

D.HARIPARANTHAMAN,J.,

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