

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.11.2015

CORAM

THE HONOURABLE MS.JUSTICE R.MALA

CRP (PD).No.4328 of 2015  
and M.P.No.1 of 2015

1.Ammakkannu  
2.Lakshmi Ammal  
3.R.Sellamuthu

.. Petitioners

Vs

Gopalan

.. Respondent

Prayer:Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 24.07.2015 made in I.A.No.154 of 2015 in O.S.No.48 of 2006 on the file of the Additional District Munsif Court, Ariyalur.

For Petitioner : Mr.C.Selvaraju  
Senior Counsel for M/s.C.S.Associates

**ORDER**

The Civil Revision Petition is filed against the fair and decreetal order dated 24.07.2015 made in I.A.No.154 of 2015 in O.S.No.48 of 2006 on the file of the Additional District Munsif Court, Ariyalur.

2.The respondent as a plaintiff filed a suit in O.S.No.48 of 2006 for bare

injunction and these petitioners as defendants contested the suit. An Advocate Commissioner was appointed and he inspected the property and filed a report in the year 2006. After commencement of trial, during the examination of P.W.1, the defendants/petitioners filed objection for report of the Advocate Commissioner along with an application in I.A.No.154 of 2015 to condone the delay of 3160 days in filing the objection. But the Trial Court has dismissed the said application. Against which, the present Civil Revision Petition has been filed.

3.At the time of admission, argument of the learned counsel for the petitioners is heard in length.

4.The learned counsel for the petitioners submitted that originally the suit has been set exparte. Thereafter, the exparte order has been set aside. Subsequently the suit was dismissed for default and again the suit has been restored to file. He further submitted that now the case is posted for cross examination of P.W.1 and hence he was constrained to file objection to the report of the Advocate Commissioner along with an application to condone the delay of 3160 days in filing the objection. That factum was not considered by the Trial Court. Hence, he prayed for setting aside the order passed by the Trial Court.

5.It is true that while condoning the delay, the Court ought to exercise the judicial discretion and the length of the delay is immaterial. Further, the petitioners must have given a reason for the delay. So, it is appropriate to consider the affidavit filed by the petitioners wherein in paragraph No.2, they have not stated any reason for condonation of delay. Furthermore, on perusal of the Advocate Commissioner's report and objection, it is seen that only with a view to get rid of the Advocate Commissioner's report, the objection has been filed by the petitioners with a long delay. In such circumstances, I am of the view that the Trial Court has considered all the aspects in proper perspective and came to the correct conclusion that no reason has been assigned by the petitioners/defendants as to why they have not filed the objection in time. Therefore, I do not find any reason to interfere with the findings of the Trial Court and hence, the Civil Revision Petition deserves to be dismissed.

6.In the result, the Civil Revision Petition is dismissed. No costs.  
Consequently, connected Miscellaneous Petition is closed. No costs.

**05.11.2015**

Index: Yes/No  
Internet: Yes/No  
cse

R.MALA. J.,

cse

To

The Additional District Munsif Court, Ariyalur.

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