

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.12.2015

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAIWAMY

C.R.P.(NPD).No.4681 of 2015
and M.P.No.1 of 2015

S.Prabhakar

... Petitioner

Vs.

State Bank of India,
Sankari Branch, Salem District,
rep by its Branch Manager.

... Respondent

Civil Revision Petition filed under Section 115 of the Civil Procedure Code against the fair and decreetal order dated 24.07.2015 made in I.A.No.403 of 2015 in O.S.No.128 of 2011 on the file of the Subordinate Court, Sankari, Salem District.

For Petitioners : Mr.P.Rajkumar Pandian

ORDER

Challenging the fair and final order passed in I.A.No.403 of 2015 in O.S.No.128 of 2011 on the file of the Subordinate Court, Sankari, Salem District, the defendant has filed the above Civil Revision Petition.

2.The plaintiff filed the suit in O.S.No.128 of 2011 to pass a preliminary decree on the mortgaged properties.

3. According to the defendant, he engaged a counsel and at the time of filing the written statement, he left his native village and joined as Manager at Karnataka State. Therefore, he did not follow the suit. Hence, he was set *ex parte* and an *ex parte* preliminary decree was passed on 26.03.2012. According to the defendant, he came to know about the *ex parte* preliminary decree only when he received notice in I.A.No.236 of 2015. The plaintiff filed his counter disputing the averments stated in the affidavit. The trial Court, taking into consideration the case of both parties, dismissed the application finding that the defendant has not given any acceptable reason for the inordinate delay of 1080 days. When the delay is on the higher side, the defendant should have given acceptable reason for condoning the delay. In these circumstances, in the absence of sufficient cause shown by the defendant, the trial Court has rightly dismissed the application.

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

Index : No
Internet : Yes
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To

The Subordinate Court,
Sankari,
Salem District.

M.DURAIWAMY,J.
va

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