

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2015

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(NPD)No.4714 of 2015

and M.P.No.1 of 2015

Thiagarajan

.... Petitioner

vs

Gangathara Finance rep by
its Managing Partner,
22-C, Cooperative Colony,
Gandhi Nagar,
Namakkal Taluk
Namakkal District

.... Respondent

Civil Revision Petition filed under Section 115 of Civil Procedure Code against the fair and decreetal order dated 25.8.2015 in I.A.No.264 of 2014 in O.S.No.807 of 2003 on the file of Subordinate Court, Namakkal.

For Petitioner : Mr.N. Manokaran

ORDER

Challenging the fair and final order passed in I.A.No.264 of 2014 in O.S.No.807 of 2003 on the file of Subordinate Court, Namakkal, the defendant has filed the above Civil Revision Petition.

2. The plaintiff filed a suit in O.S.No.807 of 2003 for recovery of money. Since the defendant remained absent, the trial Court setting exparte and passed an exparte decree on 14.10.2004. Thereafter, the defendant filed an application in I.A.No.264 of 2014 to condone the delay of 2440 days in filing the petition to set aside the exparte decree.

3. In the affidavit, filed in support of the petition, the defendant has stated that he was not informed about the exparte decree, passed by the trial Court by his counsel and therefore, he could not file the application to set aside the exparte decree in time. Further, he has stated that he was not available in his village, therefore, he could not follow the matter, which was pending before the trial Court.

4. Mr.M. Manokaran, learned counsel appearing for the petitioner submitted that the plaintiff also did not have any objection for condoning the delay and inspite of the same, the trial Court had dismissed the application.

5. The trial Court, taking into consideration the reasoning given by the defendant in the affidavit, filed in support of the petition, rightly dismissed the application.

6. When the exparte decree was passed on 14.10.2004, the

present application to condone the delay to set aside the exparte decree was filed in the year 2014. That apart, the reasoning given by the defendant, for condoning the inordinate delay of 2440 days, cannot be accepted. In the absence of sufficient cause, shown by the petitioner, the delay cannot be condoned.

7. In these circumstances, the dismissal of the petition by the trial court in I.A.No.264 of 2014 in O.S.No.807 of 2003 is just and proper and I do not find any error or irregularity in the order passed by the trial Court and hence the Civil Revision Petition is liable to be dismissed as devoid of merits. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected MP is closed.

21-12-2015

sr

Index:no
website:yes

To

The Subordinate Court, Namakkal

M. DURAISWAMY,J.,

sr

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