

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :08.07.2015

CORAM

THE HONOURABLE MR. JUSTICE M. DURAISWAMY

C.R.P.(PD)Nos.623 and 624 of 2015 &
M.P.Nos.1 of 2015 (2 MPs)

K.Duraisamy

... Petitioner in both CRPs

v.

E.Kuppusamy

... Respondent in both CRPs

Civil Revision Petitions filed under Article 227 of the Constitution of India, to set aside the order dated 22.9.2014 passed in I.A.Nos.612 of 2014 and 613 of 2014 respectively in I.A.No.935 of 2013 in O.S.No.743 of 2004 on the file of I Additional District Munsif, Erode.

For Petitioner : Mr.K.S.Jaya Ganeshan

For Respondent : Mr.v.Bharathidasan

COMMON ORDER

Challenging the fair and final order passed in I.A.Nos.612 of 2014 and 613 of 2014 in I.A.No.935 of 2013 in O.S.No.743 of 2004 on the file of I Additional District Munsif Court, Erode. the defendant has filed the above Civil Revision Petitions.

2. The plaintiff filed the suit in O.S.No.97 of 1998 originally before the Sub Court, Erode, which was transferred and renumbered as O.S.No. 743 of 2004 on the file of I Additional District Munsif Court, Erode for recovery of possession. The defendant filed his written statement.

3. The defendant is the son of the plaintiff. Since the defendant remained absent, the trial court decreed the suit ex-parte on 7.10.2004. Thereafter, the defendant filed an application in I.A.No.935 of 2013 to condone the delay of 3213 days in filing the petition to set aside the ex-parte decree, which application is being contested by the plaintiff now. In the said application, both the parties let in oral and documentary evidences and also marked documents.

4. After the closure of the oral evidences, the defendant filed the present applications, viz., I.A.Nos.612 of 2014 and 613 of 2014 to reopen the application in I.A.No.935 of 2013 and to recall R.W.1 for further examination for the purpose of marking a document. The applications were contested by the plaintiff stating that there is no necessity for reopening and recalling R.W.1 for further examination, since the application in I.A.No.935 of 2013 is to condone the delay of 3213 days in filing the petition to set aside the ex-parte decree. The defendant seeks to recall R.W.1 for marking xerox copy of the family arrangement deed dated 29.12.1996. When the main issue involved in the application in I.A.No.935 of 2013 is only with regard to delay in filing the petition to set aside the ex-parte decree, the defendant has to establish sufficient cause for condoning the delay. The family arrangement deed dated 29.12.1996 will be of no use to the defendant to establish his case for condonation of the delay.

5. It is also pertinent to note that the suit was originally filed in the year 1998, which was subsequently renumbered as O.S.No.743 of 2004. Now the suit is pending for more than 17 years. The Trial Court, taking into consideration all these aspects has rightly dismissed both the applications.

6. In these circumstances, I do not find any error or irregularity in the orders passed by the Trial Court. The Civil Revision Petitions are devoid of merits and are liable to be dismissed. Accordingly, the Civil Revision Petitions are dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Index : No
Internet : Yes

08.07.2015

Rj

To

The I Additional District Munsif Court,
Erode.

M. DURAISWAMY,J.,

Rj

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