

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 20.01.2015

CORAM

The Hon'ble Mr. Justice K.KALYANASUNDARAM

CRP NPD No.1874 of 2003

Thayathal

.. Petitioner/ Plaintiff

Vs

1. Periyasamy Gounder
2. Velusamy
3. Ponnammal
4. Samiappan

.. Respondents/Defendants

Prayer: Civil Revision Petition is filed under Section 115 of CPC against the fair and decreetal order of the District Munsif Court at Kangeyam dated 10.09.2003 in I.A.177 of 2002 in O.S.No.312 of 1998.

For Petitioner : Mr.S.Mukunth
for M/s.Sarvabhauman Associates

O R D E R

This revision is directed against the order passed by the District Munsif, Kangeyam in I.A.No.177 of 2002 in O.S.No.312 of 1998.

2. The petitioner is the plaintiff in O.S.No.312 of 1998. The suit was filed for partition and separate possession. The defendants were set exparte and exparte decree was passed on 11.08.1999. Thereafter, they filed I.A.No.177 of 2002 to condone the delay of 1127 days in filing the application to set aside the exparte decree. Despite objection by the petitioner, the District Munsif, Kangeyam condoned the delay. Challenging the order, the present revision is filed.

3. Mr.Mukund, learned counsel for the petitioner submitted that the delay was not properly explained by the defendants. It is further submitted that the affidavit is vague in nature.

4. It is seen that the trial court, taking into consideration the nature of the suit and the relationship between the parties, condoned the delay to give opportunity to the defendants to contest the suit. It is settled law that the discretion exercised by the trial court for condoning the delay

will not be interfered by this court in exercising its power of jurisdiction unless the order is perverse. Indisputably, the suit is filed for partition. The respondents are seriously disputing the claim of the plaintiff. Considering the facts of this case, I do not find any infirmity or illegality in the order impugned in this revision.

5. In the result, this Civil Revision Petition is dismissed. No costs. However, considering the fact that the suit was filed in the year 1998, the District Munsif, Kangeyam is directed to dispose of the suit, as expeditiously as possible, preferably within a period of six months from the date of receipt of a copy of this order.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

To

1.The District Munsif,
Kangeyam.

2.The Section Officer,
V.R.Section,
High Court,Chennai.

cnr (co)
krd 25/1

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सत्यमेव जयते

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