

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2015

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(NPD)No.3264 of 2013

1.R. Senthilkumar
2.Minor.Geethalakshmi

... Petitioners

VS

Lakshmi Narashimmalu Naidu Memorial Trust,
Karadivavi Village,
Palladam Taluk, rep by its
Managing Trustee
V. Lakshmi Narashimman,
S/o Late V.L. Venkittapathy Naidu,
D.No.720, Avinashi Road,
Coimbatore

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and final order dated 4.7.2013 in I.A.No.260 of 2013 in O.S.No.788 of 2007 on the file of learned Principal Sessions Court, Tirupur.

For Petitioner : Mr.R. Bharath Kumar
For respondent : Dr.C. Ravichandran for
Mr.D. Raja

ORDER

Challenging the fair and final order passed in I.A.No.260 of 2013 in O.S.No.788 of 2007 on the file of Principal District Court, Thiruppur, The defendants have filed the above Civil Revision Petition.

2. The plaintiff has filed a suit in O.S.No.788 of 2007 for declaration and permanent injunction. Since the defendants did not appear before the trial court, the trial court passed an ex-parte decree on 6.1.2009. Thereafter, the defendants filed an application in IA.No.260 of 2013 to condone the delay of 769 days in filing the petition to set aside the ex-parte decree. In the affidavit, filed in support of the petition, the defendants have stated that they have entrusted the case bundle to one Mr.Suresh, Advocate, Palladam and that they have not received any communication from him and that on verification of records, they found that the suit was decreed ex-parte on 6.1.2009 and that they came to know about the said decree only on 13.1.2011.

3. Apart from this, the defendants have not given any details with regard to the delay in filing the petition. P.W.1 was examined in the application, who deposed, that after filing of the vakalath, the defendants did not know whether they have filed written statement in the suit or not. The parties should be diligent in prosecuting the matter in a proper manner.

4. In the case on hand, the inaction on the part of the defendants would clearly establish that they were not diligent in prosecuting the matter in a proper manner. The attitude of the defendants would clearly establish that they were lethargic in their attitude.

5. Even for condoning the inordinate delay of 769 days, they have stated some reasons, which cannot be accepted. The trial court, taking into consideration the case of both the parties, rightly dismissed the application, since the defendants have not explained the reasons in a proper manner.

6. The Apex Court as well as this court have repeatedly held

that the delay, in filing a petition, can be condoned, only if the party gives sufficient cause for condoning the delay. In the absence of sufficient cause shown by the party for condoning the delay, the delay need not be condoned.

7. In these circumstances, I do not find any reason to interfere with the order passed in I.A.No.260 of 2013 in O.S.No.788 of 2007 on the file of learned Principal Sessions Court, Thiruppur and hence the civil revision petition is liable to be dismissed as devoid of merits. Accordingly, the Civil Revision Petition is dismissed. No costs.

21-04-2015

sr

Index:yes/no
website:yes/no

To

The Principal Sessions Court, Tirupur

M. DURAISWAMY,J.,

sr

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