

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :20.01.2016

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(NPD)No.4597 of 2015

1.P.M.Natarajan
2.Balu

... Petitioners

v.

Pachayappa Gounder

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the ex-parte decree and decretal order dated 31.01.2014 passed in I.A.No.138 of 2013 in O.S.No.110 of 2010 on the file of Principal District Munsif cum Judicial Magistrate Court, Chengam.

For Petitioner : Mr.R.Margabandhu

For Respondents : Mr.C.Munusamy

ORDER

Pursuant to the ex-parte decree passed in O.S.No.110 of 2010 on 29.08.2011 , the decree holder filed an Execution Petition in E.P.No.86 of 2012 in O.S.No.110 of 2010 on the file of Principal District Munsif cum Judicial Magistrate Court, Chengam and also took possession of the suit property on 30.07.2014.

2. The learned counsel appearing for the petitioners produced the certified copy of the delivery receipt before this court.

3. The defendants in the suit have filed the above Civil Revision Petition challenging the order passed in I.A.No.138 of 2013 in O.S.No.110 of 2010 on the file of Principal District Munsif cum Judicial Magistrate Court, Chengam, refusing to condone the delay of 412 days in filing the application to set aside the ex-parte decree.

4. On a perusal of the affidavit filed in support of the application in I.A.No.138 of 2013, it could be seen that the 1st defendant was suffering from jaundice and therefore, he could not file the written statement in time. In support of their contention, the defendants have not produced any evidence before the Trial Court. Therefore, in the absence of any sufficient cause shown by the defendants to condone the delay of 412 days in filing

the application to set aside the ex-parte decree, the Trial Court has rightly dismissed the application on 31.01.2014.

5. The Civil Revision Petition has been filed belated before this court challenging the order passed in I.A.No.138 of 2013. Since the defendants have not shown sufficient cause for the condonation of the delay in filing the application, 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 is liable to be dismissed. Accordingly, the Civil Revision Petition is dismissed. No costs.

Index : Yes/No

20.01.2016

Rj

To

The Principal District Munsif cum
Judicial Magistrate Court,
Chengam.

M. DURAISWAMY,J.,

Rj

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