

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.01.2016

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(NPD)No.4760 of 2015 &
M.P.No.1 of 2015

Gnanasekaran

... Petitioner

v.

1.Lakshmi
2.Saraswathi
3.Kalaiselvi

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the judgment and decree dated 13.06.2013 passed in I.A.No.734 of 2011 in O.S.No.338 of 2005 on the file of the Additional District Munsif Court, Tiruchengode.

For Petitioner : Mr.C.Kulanthaivel

For Respondents : Mr.T.L.Thirumalaisamy

O R D E R

Challenging the fair and final order passed in I.A.No.734 of 2011 in O.S.No.338 of 2005 on the file of the Additional District Munsif Court, Tiruchengode, the defendant has filed the above Civil Revision Petition.

2. The plaintiffs filed the Suit in O.S.No.338 of 2005 for partition.

3. Since the defendant failed to appear before the Trial Court, the Trial Court passed an ex-parte preliminary decree on 12.11.2008. Thereafter, the defendant filed an application in I.A.No.734 of 2011 to condone the delay of 978 days in filing the application to set aside the ex-parte decree.

4. In the affidavit filed in support of the application, the defendant has stated that he was suffering from jaundice, therefore, he was not in a position to file the application to set aside the ex-parte decree in time.

5. The plaintiffs filed their counter disputing the averments stated in the affidavit filed in support of the application.

6. The Trial Court, while dismissing the application observed that the

defendant had failed to produce any document to prove the contention that he was suffering from jaundice for nearly three years. In the absence of any sufficient cause shown by the defendant, to condone the inordinate delay of 978 days in filing the application to set aside the ex-parte decree, the Trial Court has rightly dismissed the application.

7. In these circumstances, 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. Consequently, connected miscellaneous petition is closed.

Index : Yes/No

18.01.2016

Rj

To

The Additional District Munsif Court,
Tiruchengode.

M. DURAISWAMY,J.,

Rj

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