

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.07.2016

CORAM

THE HONOURABLE THIRU JUSTICE **M. DURAISWAMY**

C.R.P.(NPD)No.1733 of 2016

N. Selvaraj

... Petitioner

vs

L. Nicholas Antony

.... Respondent

Civil Revision Petition filed under Section 115 of the Code of Civil Procedure against the fair and decretal order dated 22.06.2015 passed in I.A.No.813 of 2010 in O.S.No.129 of 2001 on the file of the III Additional Subordinate Judge, Coimbatore.

For Petitioner : Mr.S. Subbiah

For Respondent : Mr.D. Venkateswara Rao for  
Mr.A.H. Srikanth

**ORDER**

Challenging the fair and final order passed in I.A.No.813 of 2010 in O.S.No.129 of 2001 on the file of the III Additional Subordinate Judge, Coimbatore, the defendant has filed the above Civil Revision Petition.

2. The plaintiff filed a suit in O.S.No.129 of 2001 for Specific

Performance. Since the defendant failed to appear before the trial Court, the trial Court set him exparte and an exparte decree was passed against him on 09.04.2001. Thereafter, the defendant filed an application in I.A.No.813 of 2010 to condone the delay of 3470 days in filing the petition to set aside the exparte decree.

3. In the affidavit, filed in support of the petition, the defendant had stated that his father was suffering from severe ill health and that he was also bed ridden and was taking treatment in the State of Kerala and as such, he could not file the application to set aside the exparte decree immediately. The averments stated in the affidavit, filed in support of the petition, were disputed by the plaintiff in the counter.

4. The trial court, taking into consideration of both the parties, dismissed the application.

5. It is a settled position that a party, seeking condonation of delay, is duty bound to explain the reasons for the delay in an acceptable manner. In the absence of sufficient cause, shown by the party, the delay should not be condoned. The ratio laid down by the Hon'ble Supreme Court in the judgment reported in **2015 (1) SCC 680 (H. Dohil Constructions Company Private Limited vs Nahar Exports Limited and another)** squarely applies to the facts and circumstances of the present case.

6. In the case on hand, the defendant had not given any reason for condoning the inordinate delay of 3470 days in filing the petition to set aside the exparte decree, which was rightly rejected by the trial Court. In the absence of sufficient cause, shown by the defendant, the trial Court had rightly dismissed the application. In these circumstances, I do not find any error or irregularity in the order passed by the trial court. Hence the Civil Revision Petition is liable to be dismissed as devoid of merits and accordingly, the same is dismissed. No costs.

19-07-2016

sr

Index:no  
website:yes

To

The III Additional Subordinate Judge, Coimbatore.

**M. DURAISWAMY,J.,**

sr

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26-11-2015