

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2016

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(NPD) No.1797 of 2016 &

C.M.P.No.9403 of 2016

R.Maruthachalam

... Petitioner

v.

Mariammal

... Respondent

Civil Revision Petition filed under section 115 of the Civil Procedure Code against the fair and decreetal order dated 10.09.2013 passed in I.A.No.703 of 2013 in O.S.No.3652 of 2004 on the file of III Additional District Munsif, Coimbatore.

For Petitioner : Ms.V.S.Usha Rani

O R D E R

Challenging the fair and final order passed in I.A.No.703 of 2013 in O.S.No.3652 of 2004 on the file of III Additional District Munsif Court, Coimbatore, the defendant has filed the above Civil Revision Petition.

2. The plaintiff filed the suit in O.S.No.3652 of 2004 for specific performance.

3. The defendant filed his written statement and was contesting the suit.

4. When the suit was posted for cross examination of P.W.1 on 28.08.2010, since the defendant remained absent, the Trial Court set him ex-parte and an ex-parte decree was passed on 28.08.2010.

5. Thereafter, the defendant filed an application in I.A.No.703 of 2013 to condone the delay of 919 days in filing the application to set aside the ex-parte decree. In the affidavit filed in support of the application, the defendant has stated that due to illness he could not appear before the Trial Court on 28.08.2010 and because of jaundice, he fell ill and he could not file the application to set aside the ex-parte decree within time. Hence, there is a delay of 919 days in filing the application to set aside the ex-parte

decree.

6. The Trial Court, taking into consideration the averments stated in the affidavit filed in support of the application, dismissed the application finding that the defendant has not given any acceptable reason for condoning the inordinate delay of 919 days in filing the application to set aside the ex-parte decree.

7. It is settled position that in the case of not giving sufficient cause for the condonation of delay, the delay should not be condoned.

8. In the case on hand, the defendant has not given sufficient cause for the inordinate delay of 919 days. In these circumstances, the order passed by the Trial Court is just and proper.

9. In view of the above, 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.

22.06.2016

Index : Yes/No
Rj

To

The III Additional District Munsif Court,
Coimbatore.

M. DURAISWAMY,J.,

Rj

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