

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.06.2016

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

C.R.P.(NPD).No.1838 of 2016

P.Manikkavel

... Petitioner

Vs.

A.R.Chinnaya

... Respondent

Civil Revision Petition filed under Section 115 of the Civil Procedure Code against the fair and final order dated 07.04.2015 made in I.A.No.1171 of 2013 in A.S.CFR.No.20871 of 2013 on the file of the Principal District Judge, Coimbatore.

For Petitioner : Mr.N.Anand Venkatesh

For Respondent : Mr.V.Sivakumar

ORDER

Challenging the fair and final order passed in I.A.No.1171 of 2013 in A.S.CFR.No.20871 of 2013 on the file of the Principal District Court, Coimbatore, the defendant in O.S.No.82 of 2006 on the file of the Sub Court, Coimbatore has filed the above Civil Revision Petition.

2.The respondent/plaintiff filed the suit in O.S.No.82 of 2016 for recovery of money. After contest, the trial Court decreed the suit on 27.02.2008.

3.Thereafter, the defendant filed an Appeal in A.S.CFR.No.20871 of 2013 with a delay of 1998 days in filing the application in I.A.No.1171 of 2013 before the Lower Appellate Court. In the affidavit filed in support of the petition, the defendant has stated that his counsel did not apply for the certified copies of the judgment and decree and that due to his official work, he could not file the Appeal in time. In the counter, the plaintiff has stated that the certified copies of the judgment and decree passed in O.S.No.82 of 2006 dated 27.02.2008 was marked as Exs.A35 and A36 before the District Consumer Court in C.C.No.17 of 2006.

4.As such, the defendant cannot take a stand that he was not aware of the decree passed in the suit. With regard to other averments also, the plaintiff denied them as false. The Lower Appellate Court, taking into consideration the case of both parties, dismissed the application, finding that the defendant has not explained the reasons for the delay in a proper manner. Since the delay is inordinate, the burden is on the defendant to

satisfy the Court with regard to the condonation of the delay in an acceptable manner. In the absence of sufficient cause shown by the defendant, the Lower Appellate Court had rightly dismissed the application. When the defendant had knowledge of the judgment and decree passed in the suit in O.S.No.82 of 2006, which is also evident from the fact that the certified copies of the judgment and decree were marked before the District Consumer Court, Coimbatore as Exs.A35 & A36. The stand taken by the defendant was rightly rejected by the Lower Appellate court.

5.In these circumstances, I do not find any error or irregularity in the order passed by the Lower Appellate Court. The Civil Revision Petition is devoid of merits and the same is liable to be dismissed. Accordingly, the Civil Revision Petition is dismissed. No costs.

Index : No
Internet : Yes
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23.06.2016

To

The Principal District Judge,
Coimbatore.

M.DURAIWAMY,J.
va

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