

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.08.2016

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAISWAMY

C.R.P.(NPD).No.2395 of 2016
and C.M.P.No.12349 of 2016

S.Kasthuri

... Petitioner

Vs.

1.M.Chittibabu
2.R.Pawn

... Respondents

Civil Revision Petition filed under Section 115 of the Civil Procedure Code against the fair and decreetal order dated 14.06.2016 passed in I.A.No.3961 of 2015 in O.S.No.6067 of 2012 on the file of the XII Assistant Judge, City Civil Court, Chennai.

For Petitioner : Mr.S.Parthasarathy

ORDER

Challenging the fair and final order passed in I.A.No.3961 of 2015 in O.S.No.6067 of 2012 on the file of the XII Assistant Judge, City Civil Court, Chennai, the 1st defendant has filed the above Civil Revision Petition.

2.The plaintiff filed the suit in O.S.No.6067 of 2012 to direct the 1st defendant to deliver vacant possession.

3. Since the 1st defendant failed to appear before the trial Court, the trial Court passed an ex parte decree on 17.07.2013. Thereafter, the 1st defendant filed an application in I.A.No.3961 of 2015 to condone the delay of 475 days in filing the petition to set aside the ex parte decree. In the affidavit filed in support of the petition, the 1st defendant has stated that due to some misunderstanding with her counsel, he did not inform her about the hearing dates to her, therefore, she was not aware of the ex parte decree passed in the suit. Further, the 1st defendant has stated that she came to know about the ex parte decree only when she received notice in the Execution Petition. Apart from this, the 1st defendant has not stated any reason for the inordinate delay of 475 days. The averments stated in the affidavit filed in support of the petition were disputed by the plaintiff. The trial Court, taking into consideration the case of both parties, dismissed the application finding that the 1st defendant has not explained the reason for the delay in a proper manner.

4. It is settled position that unless a party seeking for condonation of the delay gives sufficient cause for condoning the delay, the delay should not be condoned.

5. In the judgment reported in **(2015) 1 Supreme Court Cases 680**

[H.Dohil Constructions Company Private Limited Vs. Nahar Exports Limited and another] the Hon'ble Supreme Court held that a party seeking for condonation of the delay should give sufficient cause.

6.In the case on hand, except blaming the counsel, the 1st defendant has not given any acceptable reason for condoning the inordinate delay of 475 days. In the absence of any acceptable reason given by the 1st defendant, 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, the connected miscellaneous petition is closed.

Index : No
Internet : Yes
va

02.08.2016

To

The XII Assistant Judge,
City Civil Court,
Chennai.

M.DURAI SWAMY, J.

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