

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.09.2016

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(NPD)No.2709 of 2016
and
CMP No.14014 of 2016

Bhavani

... Petitioner

vs

1. Mustafa

2. The President

TVN Udalpayirchi Kazhagam,
Chettikulam Theru,
Thiruvalluvar Nagar,
Pondicherry.

...

Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order dated 02.02.2016 made in I.A.No.1046 of 2014 in I.A.No.604 of 2012 in O.S.No.59 of 2007 on the file of Principal Subordinate Court, Puducherry.

For Petitioner : Mr.R. Thiagarajan

ORDER

Challenging the fair and final order in I.A.No.1046 of 2014 in

I.A.No.604 of 2012 in O.S.No.59 of 2007 on the file of Principal Subordinate Court, Puducherry, the first defendant has filed the above Civil Revision Petition.

2. The plaintiff filed a suit in O.S.No.59 of 2007 for declaration and for recovery of possession. Since the first defendant failed to appear before the trial Court, the trial court set him ex-parte and an ex-parte decree was passed on 19.04.2010. Thereafter, the first defendant filed an application in I.A.No.604 of 2012 to condone the delay of 882 days, in filing the application, to set aside the ex-parte decree. Subsequently, when the application in I.A.No.604/2012 was posted for orders, the first defendant filed an application in I.A.No.497 of 2014 for letting oral evidence and the same was allowed by the trial Court.

3. Accordingly, the first defendant let in oral evidence and was also cross examined by the plaintiff. Thereafter, the first defendant filed the present application in I.A.No.1046 of 2014 to condone the delay in filing the list of witnesses and to permit her to examine the said witnesses on her side in I.A.No.604 of 2012.

4. In the affidavit, filed in support of the petition, the first

defendant has not given any reason for not examining the witnesses at the earliest point of time. After examining herself as P.W.1, pursuant to the orders passed in I.A.No.497/2014, the present application has been filed by the first defendant after examination of P.W.1.

5. The necessity for examining the three witnesses was not explained by the first defendant in the affidavit filed in support of the petition. In the absence of any reason, given by the first defendant, the trial Court had rightly dismissed the application, finding that the present application has been filed by the first defendant, only to drag on the proceedings. That apart, the petition has been filed at a belated stage, which was rightly dismissed by the trial Court. Hence, I do not find any error or irregularity in the order passed by the trial Court and the Civil Revision Petition is devoid of merits and the same is dismissed. No costs. Consequently, connected CMP is closed.

6. Since the application in I.A.No.604 of 2012 is pending for nearly four years, I direct the Principal Subordinate Judge, Puducherry to dispose of the application in I.A.No.604 of 2012 in O.S.No.59 of 2007, on merits and in accordance with law, within one month from

M. DURAISWAMY,J.,

sr

the date of receipt of a copy of this order. With these observations, the Civil Revision Petition is dismissed. No costs. Consequently, connected CMP is closed.

06-09-2016

Index:no
website:yes

To

The Principal District Munsif cum Judicial Magistrate
Vaniyambadi, Vellore District.

CRP(NPD)No.2709/2016