

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **26.10.2016**

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

C.R.P.(P.D.) No.3330 of 2016 and
CMP.No.17057 of 2016

A.Jayaprakas

...Petitioner

versus

1.R.Lalitha

2.R.Lokesh Kannan

3.Minor R.Vignesh

(Minor represented by guardian/
next friend Mother R.Lalitha)

...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and final order dated 23.08.2016 made in I.A.No.7 of 2015 in O.S.No.33 of 2012 on the file of District Court, Nilgiris at Udthagamandalam.

For Petitioner : Ms.P.T.Asha for
M/s.Sarvabhauman Associates

ORDER

The petitioner filed a suit for specific performance in O.S.No.33 of 2012. The Trial Court passed an ex parte decree. The respondents filed an application in I.A.No.7 of 2015 to condone the delay in filing the petition to set aside the ex parte decree and another application to set aside the ex parte decree. The Trial Court allowed the application by

condoning the delay of 374 days. Feeling aggrieved, the respondent in I.A.No.7 of 2015 is before this Court with this Civil Revision Petition.

2. The learned counsel for the petitioner contended that the respondents have not given justifiable reasons for condoning the delay. The Trial Court was therefore not correct in allowing the application.

3. The petitioner initiated the suit in O.S.No.33 of 2012 praying for a decree of specific performance. The respondents 2 and 3 were minors at the time of institution of the suit. The respondents contested the suit by taking various defences including the contention that there was no sale agreement at all. The Trial Court was expected to consider as to whether there was a sale agreement and as to whether the petitioner has been ready and willing to perform his part of the contract. Since the respondents failed to appear before the Trial Court, the learned Trial Judge was not having the benefit of the case pleaded by the respondents.

4. The respondents filed an application to set aside the ex parte decree. The respondents have given sufficient reasons for the delay. The learned Judge exercised his discretion by condoning the delay of

374 days in filing the application. The order was passed taking into account the background facts including the fact that respondents 2 and 3 were minors when the decree was passed. I do not find any error or illegality in the order warranting interference by exercising the revisional jurisdiction under Article 227 of the Constitution of India.

5. In the up shot, I dismiss the Civil Revision Petition. No costs. Consequently, connected miscellaneous petition is closed.

26.10.2016

Index:Yes/No
svki

To

The District Court, Nilgiris at Udhagamandalam

K.K.SASIDHARAN, J.

(svki)

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