

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.08.2016

Coram

The Hon'ble Mr.Justice M.DURAIWAMY

CRP(NPD)NO.434 of 2016

A.Azizul Karim

...Petitioner

Vs

1. ShaikNoorudeen

2. The Sub Registrar,
Office of the Sub Registrar
Chennai 600 001

... Respondents

Civil Revision Petition filed under Section 115 of the Civil Procedure Code against the fair and decretal order of the learned XII Assistant Judge, City Civil Court, Chennai in I.A.No.17696 of 2015 in O.S.No.457 of 2011 dated 22.01.2016.

For Petitioner : Mr.C.V.Kumar

For Respondents : Mr.N.Ramesh (R1)
R2- NA

ORDER

Aggrieved over the order passed in I.A.No.17696 of 2015 in O.S.No.457 of 2011 dated 22.01.2016 on the file of the XII Assistant Judge, City Civil Court, Chennai, the plaintiff has filed the above Civil Revision Petition.

2. The plaintiff has filed the suit in O.S.No.457 of 2011 on the file of the XII Assistant Judge, City Civil Court, Chennai, for permanent injunction. Since the 1st defendant failed to appear before the trial Court, an ex-parte decree was passed in the suit on 13.02.2012. Subsequently, the 1st defendant filed an application in I.A.No.4699 of 2014 in O.S.No.457 of 2011 to condone the delay of 678 days in filing the application to set aside the exparte decree. After contest, the trial Court dismissed the said application. Aggrieved over the said order, the 1st defendant preferred a Civil Revision Petition in CRP(NPD) No.1289 of 2015 before this Court and this Court, by order dated 29.10.2015, set aside the order passed by the trial Court and condoned the delay. Subsequent to the order passed in CRP(NPD) No.1289 of 2015, the 1st defendant had filed an application in I.A.No.17696 of 2015 to set aside the exparte decree. After contest, the trial Court allowed the said application. Aggrieved over the same, the plaintiff has filed the above Civil Revision Petition.

3. When the matter is taken up for hearing, the learned counsel for the 1st respondent/1st defendant submitted that the trial Court had already taken up the matter for trial, P.W.1 was examined in Chief and the matter is posted for cross-examination of P.W.1.

4. Since this Court had already allowed the application filed under Section 5 of the Limitation Act, I am of the view that in the interest of justice, the trial Court has rightly allowed the application in I.A.No.17696 of 2015 in O.S.No.457 of 2011 and set aside the ex-parte decree. The reasoning given by the trial Court are just and proper. Hence, I do not find any reason to interfere with the order passed by the trial Court. The Civil Revision Petition is devoid of merits and the same is dismissed. No costs.

5. Since the suit is pending from the year 2011, I direct the XII Assistant Judge, City Civil Court, Chennai, to dispose of the suit in O.S.No.457 of 2011, on merits and in accordance with law, within a period of three months from the date of receipt of a copy of this order.

03.08.2016

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To
XII Assistant Judge, City Civil Court, Chennai,

M.DURAI SWAMY,J

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