

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.03.2016

CORAM

THE HONOURABLE Dr.JUSTICE S.VIMALA

CRP (NPD) No.651 of 2016

and

CMP.No.3342 of 2016

T.Meera

W/o. Late Dhanasekaran

Door No.22/88, No.3, Sivanar Street,

Gugai, Salem Town,

Salem District.

.. Petitioner

Vs

1.R.Palanivelu Gounder

S/o. Raja Gounder

Andikadu, Mulakadu Village,

Near Masakkalipatti

Rasipuram, Namakkal District.

2.P.Ravichandran

S/o.R.Palanivelu Gounder

Andikadu, Mulakadu Village,

Near Masakkalipatti

Rasipuram, Namakkal District.

3.P.Alamelu

D/o.R.Palanivelu Gounder

Andikadu, Mulakadu Village,

Near Masakkalipatti

Rasipuram, Namakkal District.

4.T.P.Sekar

S/o.Periasami

Kodumbukadu,

Thengalpalayam Village,

Rasipuram, Namakkal District.

.. Respondents

Prayer:- Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the fair and decretal order dated 12.11.2014 in I.A.No.497 of 2013 in I.A.No.578 of 2008 in O.S.No.190 of 2006 on the file of District Munsif, Rasipuram.

For Petitioner :Mr.S.Kalyanaraman

ORDER

The plaintiff's conduct by omission in not paying Rs.300/- as cost have resulted in the grave and unexpected consequence of dismissal. It is a classic example of disastrous results of an attitude of negligence.

1.2. Whether the price made payable by the Court below is correct or not, is the issue raised in this revision petition.

2. The plaintiff is the revision petitioner.

2.1. The suit in O.S.No.190 of 2006 on the file of District Munsif Court, Rasipuram has been filed by the revision petitioner/plaintiff seeking the relief of declaration and permanent injunction. On 02.09.2008, when the matter was posted for trial, the plaintiff did not appear and therefore it was dismissed on 02.09.2008.

2.2. Thereafter, the plaintiff filed an application in I.A.No.578 of 2008, seeking restoration of the suit. Fortunately, the respondents/defendants made an endorsement of no objection and the Court below has directed the petitioner/plaintiff to pay Rs.300/- as cost to the respondents/defendants' side on or before 14.07.2009. That amount was not paid as ordered by the Court below and therefore the restoration application in I.A.No.578 of 2008 came to be dismissed.

3. Thereafter, with a delay of 1354 days, the plaintiff has filed an application seeking extension of time, after condonation this delay.

3.1. The Court below has not chosen to condone the delay and the challenging the same, this revision petition has been filed.

4. The point to be decided is whether the Court below is right in not condoning the delay of 1354 days in filing the application seeking extension of time.

4.1. The revision petitioner was expected to pay only a sum of Rs.300/- as cost to the respondents on or before 14.07.2009

and that the conditional order further disclosed that in the event of failure, it was liable to be dismissed on 15.07.2009. The revision petitioner has not chosen to pay a sum of Rs.300/- either within the time or atleast within a reasonable time thereafter. It is not as if that the Court is powerless to extend the time even beyond the stipulated time. But the question is, whether there is justification to extend the time. The only reason stated is that the counsel was not well and in that case, the revision petitioner himself would have paid the cost. The cost awarded was not exorbitant. The fact remains that this earlier order as to payment of cost has been passed when the respondent did not seriously oppose the application. In that event, the revision petitioner herein should have grabbed the opportunity to keep the time. The conduct of the revision petitioner had been highly reprehensible. Hence, rightly the Court below has dismissed the petition.

5. In the result, the revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

02.03.2016

ds

To:
The District Munsif Court,
Rasipuram.

S.VIMALA,J.

ds

CRP (NPD) No.651 of 2016

02.03.2016