

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.06.2016

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

C.R.P.(NPD).No.817 of 2016
and C.M.P.No.4554 of 2016

C.Rajavelu

... Petitioner

Vs.

S.Sundararaj

... Respondent

Civil Revision Petition filed under Section 115 of the Civil Procedure Code against the fair and decretal order dated 08.12.2015 made in I.A.No.139 of 2014 in O.S.No.195 of 2008 on the file of the Subordinate Judge, Tiruchengode.

For Petitioner : Mr.A.Nagarathinam

ORDER

Challenging the fair and final order passed in I.A.No.139 of 2014 in O.S.No.195 of 2008 on the file of the Subordinate Court, Tiruchengode, the defendant has filed the above Civil Revision Petition.

2.The respondent/plaintiff filed the suit in O.S.No.195 of 2008 for recovery of money. The defendant entered appearance in the suit and was taking time for filing written statement.

3.At that stage, the suit was transferred to the file of the Sub Court, Tiruchengode from the file of the District Munsif Court, Namakkal, after the constitution of the Sub Court at Tiruchengode. Thereafter, the Sub Court, Tiruchengode passed an exparte decree on 30.10.2008 since the defendant failed to appear before the trial Court. Thereafter, the defendant filed an application in I.A.No.139 of 2014 to set aside the exparte decree with a delay of 1937 days. In the affidavit filed in support of the petition, the defendant has stated that he was not aware of the transfer of the suit from the file of the District Munsif Court, Namakkal to the file of the Sub Court, Tiruchengode, therefore, there is a delay of 1937 days. The averments stated in the affidavit filed in support of the petition was disputed by the plaintiff. The trial Court, taking into consideration the case of both parties, dismissed the application finding that the defendant had entered appearance in the Execution Petition filed by the respondent/plaintiff in E.P.No.6 of 2013 and inspite of the same, the defendant kept quite for a long time and filed the present application after a lapse of 1937 days. In order to condone the inordinate delay of 1937 days, the defendant has not

given any acceptable reason. In the absence of sufficient cause shown by the defendant, the delay cannot be condoned. The trial Court has rightly dismissed the petition.

4. 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

27.06.2016

To

The Subordinate Judge,
Tiruchengode.

M.DURAIWAMY,J.
va

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