

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.06.2016

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(NPD)No.997 of 2016 &
C.M.P.No.5611 of 2016

Jayaraman

... Petitioner

v.

Ranganathan

... Respondent

Civil Revision Petition filed under section 115 of the Code of Civil Procedure, against the fair and decreetal order dated 03.02.2016 passed in I.A.No.338 of 2015 in O.S.No.232 of 2007 on the file of Principal District Munsif, Dharmapuri.

For Petitioner : Mr.I Abrar MD Abdullah

For Respondent : Mr.T.Dhanasekaran

O R D E R

Challenging the fair and final order passed in I.A.No.338 of 2015 in O.S.No.232 of 2007 on the file of Principal District Munsif Court, Dharmapuri, the 5th defendant has filed the above Civil Revision Petition.

2. The plaintiff filed the suit in O.S.No.232 of 2007 for partition and separate possession.

3. Since the defendants were absent before the Trial Court, the Trial Court passed an ex-parte preliminary decree on 07.03.2008. Thereafter, the 5th defendant filed an application in I.A.No.338 of 2015 to condone the delay of 2638 days in filing the application to set aside the ex-parte preliminary decree.

4. In the affidavit filed in support of the application, the petitioner has blamed the counsel stating that he has not informed him about the pendency of the suit and the ex-parte preliminary decree passed in the suit.

5. The application filed by the 5th defendant was opposed by the plaintiff stating that the reasoning given by the 5th defendant cannot be accepted.

6. The Trial Court, taking into consideration the case of both the parties, dismissed the application.

7. On a perusal of the materials available on record, it could be seen that the 5th defendant was not diligent in prosecuting the matter in a proper manner. Even in the affidavit filed in support of the application, the 5th defendant has blamed only his counsel for the inordinate delay of 2638 days in filing the application to set aside the ex-parte preliminary decree.

8. It is settled position that unless the petitioner shows sufficient cause for the condonation of delay, the delay need not be condoned. In the case on hand, in the absence of any sufficient cause shown by the 5th defendant, the Trial Court has rightly dismissed the application.

9. 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, connected miscellaneous petition is closed.

10.06.2016

Index : Yes/No

Rj
To
The Principal District Munsif Court,
Dharmapuri.

M. DURAISWAMY,J.,

Rj

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