

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.08.2016

CORAM

THE HONOURABLE THIRU JUSTICE **M. DURAISWAMY**

C.R.P.(NPD)No.714 of 2009

Sivakumar

... Petitioner

vs

1. Chellappa Gounder

2. Elumalai

.... Respondents

Civil Revision Petition filed under Section 115 of the Code of Civil Procedure against the fair and decretal order dated 27.08.2008 in I.A.No.1363/2006 in O.S.No../2006 on the file of the Principal District Munsif Court, Ulundurpet.

For Petitioner : Mr.P. Jagadeesan

For Respondents : Mr.R. Sripriya for
Mr.V. Raghavachari

ORDER

Challenging the fair and final order passed in I.A.No.1363 of

2006 in unnumbered O.S.No.../2006 on the file of the Principal District Munsif Court, Ulundurpet, the plaintiff has filed the above Civil Revision Petition.

2. The plaintiff filed an unnumbered suit in O.S.No../2006 for recovery of money. The Registry of the trial Court returned the plaint, for complying with the defects on 30.09.2003. The plaintiff represented the plaint after a delay of 1116 days. In order to condone the delay of 1116 days in representing the papers, the plaintiff filed an application in I.A.No.1363/2006. In the affidavit, filed in support of the petition, the plaintiff has stated that the papers were returned by the Registry of the trial Court on 30.09.2003, granting ten days time to represent the papers. Further, he has stated that he engaged a counsel, who was later appointed as District Munsif. Further, the plaintiff has stated that he was working in Bangalore as Coolie. Since the plaintiff's counsel was appointed as Judicial Officer, he could represent the papers in time. Hence, according to the plaintiff, there is a delay of 1116 days in representing the papers.

3. The defendants filed their counter, disputing the averments

stated in the affidavit, filed in support of the petition.

4. The trial court, taking into consideration of both the parties, dismissed the application. While dismissing the application, the trial Court observed that the plaint was presented on 16.04.2003. The plaintiff had paid only a sum of Rs.200/- as Court fee. When the papers were returned on 30.09.2003 for compliance, ten days time was granted to represent the papers. However, the plaintiff took more than three years for representing the papers. The reasoning given by the plaintiff for condoning the inordinate delay of 1116 days cannot be accepted.

5. It is a settled position that a party, seeking condonation of delay, is duty bound to explain the reasons for the delay in an acceptable manner. In the absence of sufficient cause, shown by the party, the delay should not be condoned. The ratio laid down by the Hon'ble Supreme Court in the judgment reported **in 2015 (1) SCC 680 (H. Dohil Constructions Company Private Limited vs Nahar Exports Limited and another)** squarely applies to the facts and circumstances of the present case.

M. DURAISWAMY,J.,

sr

6. In the case on hand, the plaintiff had not given sufficient reason for condoning the inordinate delay of 1116 days. In the absence of sufficient cause, shown by the plaintiff, the trial Court had rightly dismissed the application. In these circumstances, I do not find any reason to interfere with the order passed by the trial Court. Hence the Civil Revision Petition is liable to be dismissed as devoid of merits and accordingly, the same is dismissed. No costs.

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Index:no

website:yes

To

The Principal District Munsif Court, Ulundurpet

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