



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.07.2016

CORAM:

THE HONOURABLE Mr. JUSTICE K.KALYANASUNDARAM

C.R.P.NP(MD)No.1381 of 2016

and

C.M.P. (MD)No.6658 of 2016

Alagu Servai

... Petitioner/Petitioner/Plaintiff
Vs.

A.Elango

... Respondent/Respondent/Defendant

Prayer: Civil Revision Petition is filed under Section 115 of C.P.C., against the fair and decretal order in I.A.No.377 of 2015 in O.S.No.16 of 2004 dated 12.04.2016 on the file of the District Munsif cum Judicial Magistrate Court, Thirumayam.

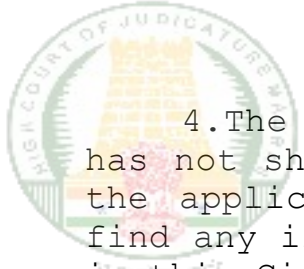
For Petitioner : No appearance

ORDER

This Civil Revision petition is directed against the order of the District Munsif cum Judicial Magistrate, Thirumayam, in I.A.No.377 of 2015 in O.S.No.16 of 2004.

2.The petitioner instituted the suit against the respondent for declaration, declaring that the compromise decree passed in O.S.No.77 of 1996 dated 22.01.1998 as null and void. The suit is being contested by the respondent by filing a written statement. It is seen from the records that the suit was posted in the special list in the year 2010 and it was allowed to be dismissed for non prosecution on 20.04.2010. Subsequently, the suit was restored on 03.12.2011. Thereafter, the suit was posted on 22.12.2011 for evidence on the plaintiff side and after five adjournments, P.W.1 was examined on 16.02.2012 and on 17.04.2012 a conditional order was passed for completion of P.W.1's chief examination. However, due to non appearance of the plaintiff, the suit was again dismissed for non prosecution on 19.04.2012.

3.The application filed by the petitioner to condone the delay in filing the application to restore the suit was returned in S.R.No.102 of 2012 for rectifying some mistakes. The present application in I.A.No.377 of 2015 is filed to condone the delay of 937 days in representing the petition in S.R.No.102 of 2012. The application was resisted by the respondent, stating that based on the decree passed in O.S.No.77 of 1996 the respondent laid an execution petition in E.P.No.12 of 2015 and also sought for police protection and at that juncture, this application was filed with mala fide intention.



4.The learned District Munsif having found that the petitioner has not shown sufficient cause for condoning the delay, dismissed the application. Considering the facts of this case, I do not find any illegality or material irregularity in the order impugned in this Civil Revision petition.

5.In the result, the Civil Revision petition is dismissed. No costs. Consequently, connected M.P.is closed.

Sd/-

Assistant Registrar(T&P)

/True copy/

Sub Assistant Registrar

To

The District Munsif cum Judicial Magistrate Court, Thirumayam.

+1 cc to M/s.K.Baalasundharam, Advocate in SR.No.36399

CSL/AAL-MPA/20.07.2016 :2P/3C

C.R.P.NP (MD) No.1381 of 2016

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