



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.09.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.R.P (MD) No.1740 of 2016 (PD)
and
C.M.P. (MD) .No.8420 of 2016

Gnanamani

.. Petitioner

Vs.

1.A.Rajendran
2.R.Stella Mary

.. Respondents

Prayer : This Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 21.11.2014 passed in I.A.No.118 of 2014 in O.S.No.574 of 2011 on the file of the II Additional District Munsif Court, Tiruchirappalli and allow the present Civil Revision Petition.

For Petitioner : Mr.R.Subramanian

ORDER

This revision arises out of the order passed by the learned II-Additional District Munsif, Thruchirappalli, in I.A.No.118 of 2014 in O.S.No.574 of 2011.

2. The suit in O.S.No.574 of 2011 was filed by the petitioner against the respondents for specific performance of the agreement dated 18.07.2005. The suit was decreed ex-parte on 20.07.2012 for non-filing of written statement. Thereupon, the defendants filed an application in I.A.No.118 of 2014 to set aside the ex-parte decree, along with the delay condonation petition, to condone the delay of 568 days in filing the application.

3. In the affidavit filed in support of the petition, it was averred that the defendants had gone to Andhaman by transfer and they were not be able to give instruction to their counsel to file written statement. The application was resisted by the petitioner herein stating that the delay was not properly explained by the respondents. However, the Trial Court condoned the delay on payment of cost on Rs.500/-. Aggrieved over the same, the present revision is filed.

4. Heard Mr.R.Subramanian, learned counsel appearing for the petitioner and perused the records.



5. It is seen from the records that the suit was filed for specific performance of the agreement relating to an extent of 1320 sq.ft of housing plot. The Trial Court taking into consideration, the prayer sought for in the suit, condoned the delay, on payment of cost, by order dated 21.11.2014.

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6. It is settled law that the discretionary jurisdiction exercised by the Trial Court in favour of condoning the delay cannot be interfered with by the appellate Court, unless the order is perverse. In the case on hand, the Trial Court having satisfied with the reasons assigned by the respondents, condoned the delay. Hence, I do not find any illegality or irregularity in the order impugned in this revision.

7. In the result, this Civil Revision Petition is dismissed. Consequently, connected miscellaneous petition is closed. No Costs. However, the II-Additional District Munsif, Tiruchirappalli, is directed to dispose of O.S.No.574 of 2011, as expeditiously as possible, preferably, on or before 31.12.2016.

Sd/-

Assistant Registrar (CS I)

/True Copy/

Sub Assistant Registrar

PJL

To

II-Additional District Munsif,
Tiruchirappalli,

+1 cc to Mr.R.Subramanian ,Advocate, Sr.No: 49469

JAM/SKS-rR I/23.09.16/ 2p-3c

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