

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.11.2017

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

CRP (PD) No. 4125 of 2017
and
CMP No. 19349 of 2017

1. Vedagiri
2. Munusamy

.. Petitioners

Vs

M.Govindapillai

.. Respondent

PRAYER: Civil Revision Petition filed under Section 115 of Civil Procedure Code, to set aside the fair and decreetal order dated 18.09.2017 in I.A.No.75 of 2017 in O.S.No.84 of 2013 on the file of District Munsif Cum Judicial Magistrate, Uthiramerur.

For Petitioners : Mr. D. Ravichander

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ORDER

This Revision Petition arises against the fair and decreetal order dated 18.09.2017 passed in I.A.No.75 of 2017 in O.S.No.84 of 2013 by the District Munsif Cum Judicial Magistrate, Uthiramerur.

2. The learned counsel for the petitioners would submit that the respondent filed a suit in O.S. No. 84 of 2013, seeking for permanent injunction. In the aforesaid suit, an ex-parte decree was passed on 30.04.2014. Hence, the petitioners filed an Interlocutory Application in I.A.No.75/2017, to condone the delay of 902 days in filing the application to set aside the ex-parte decree. The said application was dismissed by the trial Court on 18.09.2017. Aggrieved by the same, the present revision has been filed.

3. According to the petitioners, the delay of 902 days has been properly explained in the affidavit and the suit has to be considered on merits, giving liberal approach by condoning the delay in filing the petition to set aside the ex-parte decree. But, the court below has erroneously dismissed the application. Therefore, the order passed by the Court below is liable to be set aside.

4. On perusal of the affidavit filed by the petitioners, it is seen that no proper reasoning has been given in the affidavit, to condone

the inordinate delay in filing the application to set aside the ex-parte decree. The suit has been filed for permanent injunction, disputing the 3 ft. land in the suit property. The petitioners have not adduced any oral or documentary evidences, in support of his claim for the inordinate delay. Therefore, no satisfactory explanation is given by the petitioner to allow the application.

5. In the case of ***H. Dohil Constructions Company Private Limited vs. Nahar Exports Limited and another reported in (2015) 1 SCC 680***, the Hon'ble Supreme Court has observed that mere filing of an application for condoning the delay of 1727 days in the matter of re-filing without disclosing reasons, much less satisfactory reasons, only results in the respondents not deserving any indulgence by the court in the matter of condonation of delay. In the case on hand, since the petitioners have not satisfied this Court by producing the oral and documentary evidences for condoning the inordinate delay, this Court is not inclined to interfere with the order passed by the lower court.

D. KRISHNAKUMAR J.,

avr

6. The Civil Revision Petition is dismissed. Consequently, the connected Miscellaneous Petition is closed. No costs.

13.11.2017

Index: Yes / No

Speaking order/ Non speaking order

avr

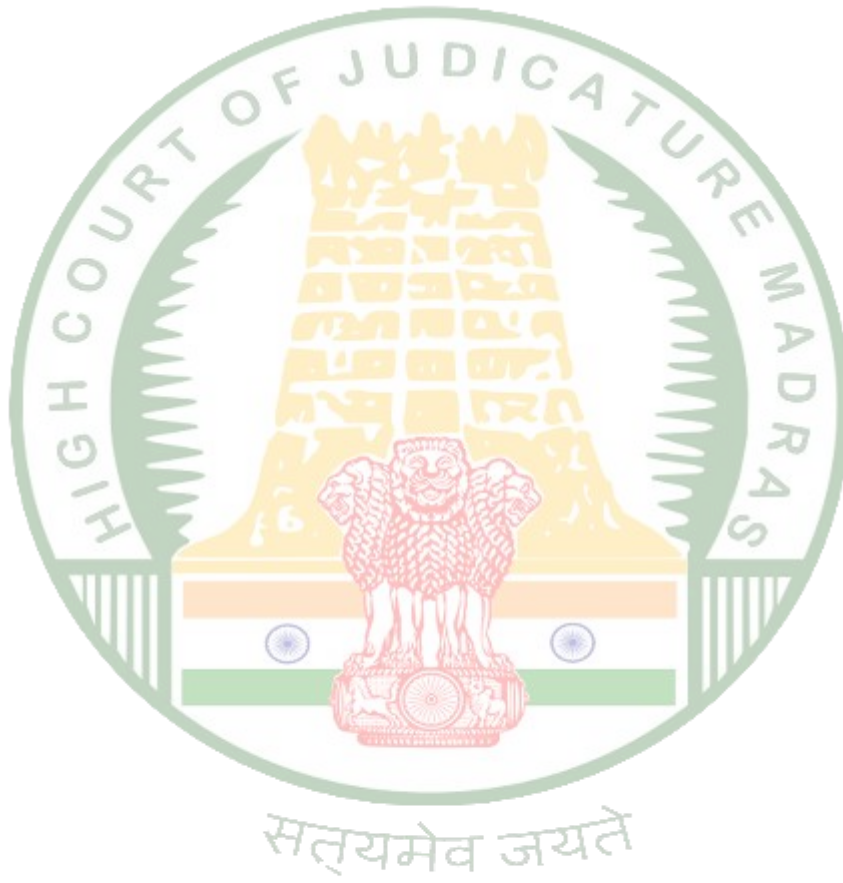
To

The District Munsif Cum
Judicial Magistrate,
Uthiramerur.



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