

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.12.2017

CORAM

THE HON'BLE MR. JUSTICE **D. KRISHNAKUMAR**

CRP.(PD). No.4480 of 2017

P.Venkatesan

..Petitioner

Vs.

1.Indrani

2.P.A.Joykutty

..Respondents

PRAYER:

The Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the Fair and Decretal order in I.A.No.473 of 2014 in unnumbered O.S.R.No.6348 of 2009 dated 21.07.2017 on the file of the Principal District Judge of Thiruvallur.

For petitioner : Mr.P.Kannan

ORDER

The revision petitioner has filed a suit in unnumbered OS.No.6348 of 2009 before the trial court on 17.09.2009. The said plaint was returned to comply with certain defects. The revision

petitioner could not re-present the same within time. Hence, the revision petitioner re-presented the plaint along with a condone delay application to condone the delay of 1794 days in re-presenting the plaint for the reasons stated in the affidavit. According to the revision petitioner, the sale agreement was entered between the parties on 21.09.2006 and subsequently on 05.02.2007, the first defendant has executed sale deed in favour of the second defendant. Thereafter, the revision petitioner has filed the suit before the trial court. But, the court below without considering the reasons stated by the revision petitioner has erroneously dismissed the said application.

2. The learned counsel for the revision petitioner would submit that the reasons stated in the affidavit are bonafide. The revision petitioner could not re-present the papers within the stipulated time only due to the above reasons. Hence, the delay in re-presenting the papers is neither wilful nor wanton. Therefore, the order passed by the court below is liable to be set aside.

3. On perusal of the affidavit filed by the revision petitioner, the revision petitioner has not given any particulars for the condoning the inordinate delay in re-presentation of the said

plaint.

4. At this juncture, it is useful to extract the judgment of the Hon'ble Supreme Court in the case of **H.DOHIL CONSTRUCTIONS COMPANY PRIVATE LIMITED Vs. NAHAR EXPORTS LIMITED AND ANOTHER**, reported in **(2015) 1 SCC 680**, wherein it is held as follows:

The filing of an application for condoning the delay of 1727 days in the matter of refiling 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. The respondents had filed the suit for specific performance and when the trial court found that the claim for specific performance based on the agreement was correct but exercised its discretion not to grant the relief for specific performance but grant only a payment of damages and the respondents were really keen to get the decree for specific performance by filing the appeals, they should have shown utmost diligence and come

forward with justifiable reasons when an enormous delay of five years was involved in getting its appeals registered.

5. In the light of the above said decision, the petitioner has not furnished any particulars in the affidavit. Therefore, this Court on considering the facts, that the sale agreement was entered on 21.09.2006 and the suit was filed on 17.09.2009 and subsequently, filed the instant petition to re-present the plaint with inordinate delay of 1794 days without any particulars in the affidavit. Further, no evidence has been adduced before the trial court in support of his contention. Therefore, this Court is not inclined to interfere with the orders passed by the Court below. There is no prima facie case is made out, to entertain the revision petitioner.

6. In the result, the Civil Revision Petition fails and accordingly, the same is dismissed. No costs.

07.12.2017

Speaking / Non Speaking order
Index :Yes/No
Internet :Yes/No
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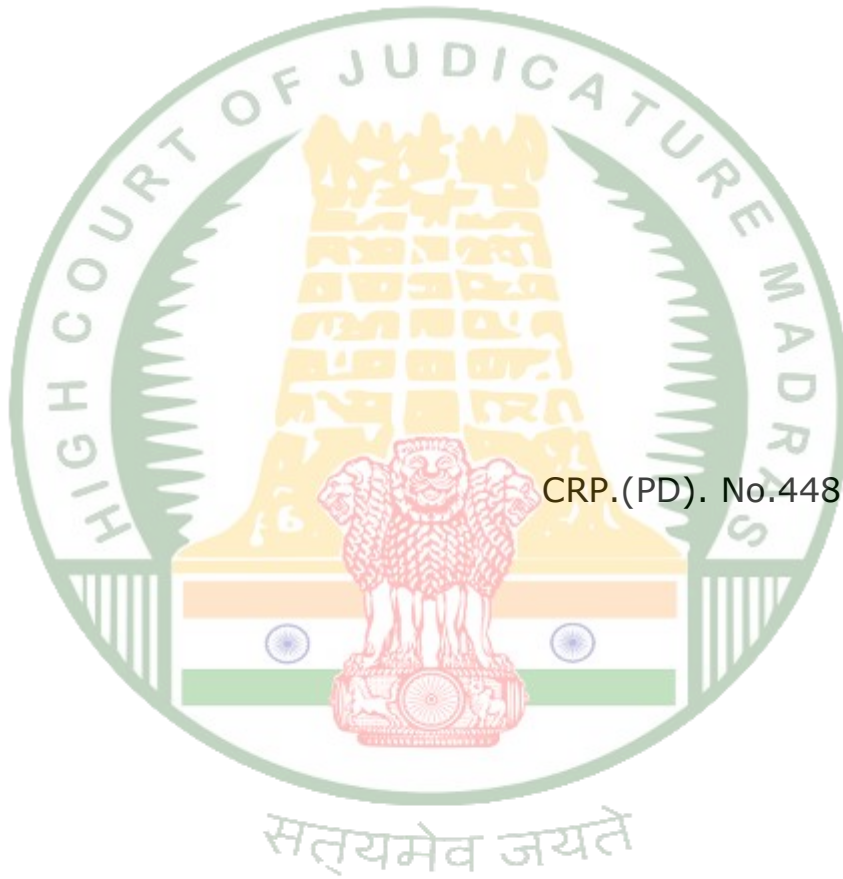
To
The Principal District Judge,
Thiruvallur.



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D.KRISHNAKUMAR.J,

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