

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.10.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(NPD)No.521 of 2015

Venkatesan Hamsaleelavathy .. Petitioner

Vs.

1.V.Palani

2.The Tahsildar
Sholinganalur Taluk
Chennai-119.

3.The Executive Officer
Ullagaram-Puzhuthivakkam Municipality
Puzhuthivakkam, Chennai 600 091.

4.The District Collector
Kancheepuram District
Kancheepuram.

.. Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, against the fair and decretal order dated 14.10.2014 made in I.A.No.233 of 2014 in O.S.No.276 of 2010 on the file of the Additional District Munsif Court, Alandur.

For Petitioner : Mr.S.Sethuraman

For R1 : Mr.S.Baskaran

For R2 to R4 : No Appearance

ORDER

The Civil Revision Petition is filed against the fair and decretal order dated 14.10.2014 made in I.A.No.233 of 2014 in O.S.No.276 of 2010 on the file of the Additional District Munsif Court, Alandur.

2. Heard the learned counsel for the petitioner and first respondent and perused the materials available on record.

3. The petitioner is the first defendant, first respondent is the plaintiff and respondents 2 to 4 are the defendants 2 to 4 in O.S.No.276 of 2010. The first respondent filed the said suit for permanent injunction restraining the petitioner and respondents 2 to 4 from interfering with the first respondent's peaceful possession and enjoyment of the suit schedule property and for mandatory injunction.

4. According to the petitioner, she is in U.S.A. and she appointed one S.Arrokiyaraj as her power agent to take care of the

suit schedule property as well as the above suit. She was under the bonafide impression that her power agent would be prosecuting the case. When the petitioner attended the proceedings before the District Collector, Kancheepuram, on 30.08.2013, the first respondent's son during enquiry stated that exparte decree was passed on 07.02.2012. After verification, the petitioner filed an application in I.A.No.233 of 2014 to condone the delay of 30 days in filing the petition to set aside the exparte decree dated 07.02.2012 made in O.S.No.276 of 2010.

5. The contention of the petitioner is that she was under the bonafide impression that her power agent would be prosecuting the case without merits. The petitioner has entered appearance and filed written statement. She also filed I.A.No.506 of 2010 to reject the plaint. The said application was dismissed for default. The petitioner also filed I.A.No.505 of 2010 to suspend the order of injunction and the said I.A.No.505 of 2010 was directed to be listed along with the suit. The said order was passed on 01.12.2012. The petitioner also filed W.P.No.2645 of 2011 for a direction to the District Collector, Kancheepuram and other Authorities to complete the enquiry on the petition filed by the petitioner dated 19.03.2010.

6. This Court by order dated 18.07.2011 directed the District Collector, Kancheepuram, to dispose the petition dated 19.03.2010 filed by the petitioner, after hearing both the petitioner and respondents. In such circumstances, the petitioner ought to have vigilant in prosecuting her case in the above suit. Having filed application to suspend the order of injunction, I.A.No.506 of 2010 for rejection of plaint and also written statement, the petitioner did not take any steps to prosecute her case and failed to contact her Advocate or her power agent and find out the stage of the suit and application filed by her.

7. It is a well settled that application for condoning the delay must be considered liberally and length of delay is not a criteria. The Courts must see whether the parties have given acceptable and valid reason and the intention of the parties is bonafide and not malafide. The parties should not be shut down at the threshold itself and they must be given an opportunity to put forth their case on merits.

8. In view of the same, the reason given by the petitioner that she came to know the exparte decree dated 07.02.2012 only on

30.08.2013 is not sufficient and acceptable reason to condone the delay. The learned Judge has considered all the above facts and dismissed the application by giving cogent and valid reason. There is no irregularity or illegality warranting interference with the order passed by the learned Judge dated 14.10.2014.

9. In the result, the Civil Revision Petition is dismissed. No costs.

20.10.2017

Index : Yes/No
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To

1.The Additional District Munsif,
Alandur.

2.The Tahsildar
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Chennai 119.

3.The Executive Officer
Ullagaram-Puzhuthivakkam Municipality
Puzhuthivakkam, Chennai 600 091.

4.The District Collector
Kancheepuram District
Kancheepuram.

V.M.VELUMANI, J.

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