

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.08.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(NPD)No.3902 of 2012
& M.P.No.1 of 201

C.Kuppan

...

Petitioner

Vs.

Ellammal

...

Respondents

PRAYER: Civil Revision Petition filed under Section 115 of the Civil Procedure Code against the order dated 12.07.2012 in I.A.No.23 of 2012 in O.S.No.573 of 2008 on the file of the Principal District Munsif Judge at Vellore, Vellore District.

For Petitioner : Mr.A.Gowthaman

For Respondents : Not ready in notice

ORDER

This Civil Revision Petition has been filed against the order dated 12.07.2012 in I.A.No.23 of 2012 in O.S.No.573 of 2008 on the file of the Principal District Munsif Judge at Vellore, Vellore District.

2. The petitioner is the defendant and the respondent is the plaintiff in the suit filed in O.S.No.573 of 2008 before the District

Munsif at Vellore. The respondent filed the suit against the petitioner for recovery of money. The petitioner did not file the written statement and he was set exparte on 24.01.2011 and exparte decree was passed on 29.01.2011. The petitioner filed I.A.No.23 of 2012 in O.S.No.573 of 2008 to condone the delay of 295 days in filing the application to set aside the exparte decree dated 29.01.2011.

3. According to the petitioner, he was suffering from Jaundice for eight months and therefore he could not file the written statement. The respondent filed counter affidavit and opposed the said application and stated that earlier an exparte decree was passed on 07.01.2010. The petitioner filed I.A.No.910 of 2010 to set aside the exparte decree and the said application was allowed on 08.10.2010. Inspite of the same, the petitioner has not filed any written statement and again he was set exparte on 24.01.2011 and exparte decree was passed on 29.01.2011. The reasons given by the petitioner for condoning the delay in filing the petition to set aside the exparte decree that he was suffering from Jaundice is false.

4. The learned Judge, considering the averments in the affidavit, counter affidavit and taking note of the fact that earlier the petitioner was set exparte on 07.10.2010 and exparte decree

passed second time and petitioner has not given any valid reason, dismissed the application.

5. Against the said order of dismissal dated 12.07.2012 made in I.A.No.23 of 2012 in O.S.No.573 of 2008, the present Civil Revision Petition has been filed.

6. Heard the learned counsel appearing for the petitioner and perused the materials available on record.

7. It is not in dispute that the petitioner was set exparte for not filing the written statement and exparte decree was passed on 07.01.2010. The petitioner filed I.A.No.910 of 2010 to set aside the exparte decree and the said application was allowed on 08.10.2010. The petitioner again did not file written statement and therefore he was set exparte on 24.01.2011 and exparte decree was passed on 29.01.2011. In the petition filed to condone the delay in filing the petition to set aside the exparte decree, the petitioner has stated that he was suffering from Jaundice and therefore he could not file the written statement. The petitioner has not substantiated the said contention by acceptable evidence. Further, earlier application in I.A.No.910 of 2010 to set aside the exparte decree was allowed on 08.10.2010. As the petitioner has not given the date from which he was suffering from Jaundice, the reason given by the petitioner is

not a sufficient and valid one to set aside the exparte decree passed against him for the second time.

8. The contention of the respondent that only to drag on the proceedings the petitioner has come up with the present application has considerable force. Considering all the above facts, the learned Judge has given cogent and valid reason for dismissing the application in I.A.No.23 of 2012. In the said circumstances, I do not find any irregularity or illegality in the order impugned in this revision warranting interference by this Court.

9. In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Index : Yes/No

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18.08.2017

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V.M.VELUMANI, J.

rgr

To

The Principal District Munsif,
Vellore District.



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