

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.09.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(NPD)No.60 of 2012

Kaliammal

.. Petitioner

Vs.

1.Anandasayanam @ Vehamuni Anandar

2.Papathiammal

Periyaswamy Reddy (Died)

3.Munusamy Reddy

4.Balaraman

5.Bhoopathi

6.Pachaiyamma

7.Rathinabai

.. Respondents

(Amended as per order in I.A.No.635/2010
dated 21.06.2011 and amended as per
order in I.A.No.365/2011, dated 05.08.2011)

PRAYER: Civil Revision Petition is filed under Section 115 of C.P.C.,
against the fair and decretal order dated 03.11.2011 made in
I.A.No.546 of 2009 in O.S.No.277 of 1992 on the file of the District
Munsif Court, Arakkonam.

For Petitioner : Mr.G.Jeremiah

For Respondent : No appearance

ORDER

The Civil Revision Petition is filed against the fair and decretal order dated 03.11.2011 made in I.A.No.546 of 2009 in O.S.No.277 of 1992 on the file of the District Munsif Court, Arakkonam.

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

3. The petitioner is the plaintiff and respondents are the defendants in O.S.No.277 of 1992. The petitioner filed suit for specific performance of agreement of sale. The respondents filed written statement on 29.01.1993 and are contesting the suit. Trial commenced. The petitioner filed proof affidavit and examined herself as P.W.1 on 27.02.2002 and suit was posted for cross examination of the petitioner. The suit was adjourned on 16 hearings for cross examination of the petitioner, but she appeared only for one hearing. When the suit was posted for cross examination on 26.08.2002, on that day alone, the petitioner was not present. Hence, the learned Judge dismissed the suit for default. The petitioner filed the present I.A.No.546 of 2009 to condone the delay of 794 days in filing the petition to restore the

suit.

4. According to the petitioner, she was suffering from Jaundice from August 2002 to October 2004 and she was taking native treatment and she could not contact her Advocate and give instructions. After recovering from the illness, she contacted her advocate and immediately filed the present application.

5. The learned Judge considering the materials on record, dismissed the application by holding that the petitioner has not substantiated that she was suffering from Jaundice and after examining herself as P.W.1 on 26.08.2002, she did not appear for more than 16 hearings, when the matter was posted for cross examination. In the circumstances, the learned Judge dismissed the application by giving cogent and valid reasons. There is no illegality or irregularity warranting interference by this Court with the order of the learned trial Judge, dated 03.11.2011 made in I.A.No.546 of 2009.

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

12.09.2017

Index : Yes/No
dm/kj

V.M.VELUMANI, J.

dm/kj

To

The District Munsif,
Arakkonam.



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