



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.10.2017

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (MD) No.1789 of 2017

and

C.M.P. (MD) No.9564 of 2017

N.K.Sekar

... Petitioner

Vs.

Celin

... Respondent

Prayer: This Civil Revision Petition is filed under Section 115 of Civil Procedure Code, against the fair and decretal order dated 28.07.2017 made in I.A.No.1373 of 2014 in O.S.No.738 of 1999 on the file of II Additional Subordinate Judge, Tiruchirapalli.

For Petitioner : Mr.R.Devaraj

ORDER

The first defendant in the suit is the revision petitioner herein. The respondent in the civil revision petition filed a money suit in O.S.No.738 of 1999 on the file of the II Additional Subordinate Judge, Tiruchirappalli, for a sum of Rs.1,72,081/- with interest. The suit was decreed on 24.10.2005. The second defendant in the suit was none other than the mother of the revision petitioner herein. The suit was based on the pronote executed by the defendants in the favour of the plaintiff on 19.03.1998. After suffering the exparte decree, the revision petitioner filed an application for setting aside the exparte decree. But, there was a delay in filing the said petition. Therefore, I.A.No.1373 of 2014 was filed under Section 5 of the Limitation Act, 1963. The trial Judge dismissed the said petition and refused to condone the delay. The order of dismissal passed on 28.07.2017 is under challenge in this revision petition.

2.Heard the learned counsel for the petitioner.

3.The delay occasioned in filing set aside application is not a nominal one. The revision petitioner had taken 1174 days to file the said application. Though the revision petitioner suffered an exparte decree on 24.10.2005 and filed the present application on 11.02.2009, it appears to have been numbered only in 2014.

4.As already pointed out, the suit was of the year 1999. It was decreed in a hasty manner. The suit came to be decreed after a lapse of 6 years. A decree passed 12 years ago cannot be set at nought at the instance of a litigant, who has admittedly been



casual and indifferent. The delay that has occurred cannot be condoned for the asking. The revision petitioner must set out sufficient cause.

5. The reasons assigned in the affidavit filed in support of I.A. do not make out a sufficient cause which warrants condonation. It is not as if the revision petitioner is a stranger to Court proceedings. During the very same time, he had engaged the very same counsel to conduct a criminal case. The trial Court was satisfied that the revision petitioner was not bonafide. Therefore, it refused to show indulgence. The reasons assigned by the trial Court cannot be said to be erroneous. I agree with the reasons assigned by the trial Judge for dismissing I.A.No.1373 of 2014 in O.S.No.738 of 1999 on the file of II Additional Sub Court, Tiruchirappalli.

6. This civil revision petition is without any merit. It stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Writs)

/True Copy/

Sub Assistant Registrar

To

1. The II Additional Subordinate Judge, Tiruchirapalli.

2. The Record Keeper,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.R.DEVARAJ Advocate in SR. No. 83705

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JS/JC/SAR.1/7.11.2017/2P-4C

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