



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.07.2017

CORAM:

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THE HONOURABLE MR.JUSTICE T.RAVINDRAN

C.R.P. (NPD) (MD) No.462 of 2017

Velusamy ... Petitioner/Petitioner/Sole Defendant

-vs-

Visvanathan ... Respondent/Respondent/Plaintiff

PRAYER: Civil Revision Petition is filed, under Section 115 of Civil Procedure Code, to call for the records pertaining to the fair order and decretal order in I.A.No.72 of 2016 in O.S.No.13 of 2010 on the file of the District Munsif Court, Ramanathapuram dated 23.09.2016 and to set aside the same.

For Petitioner : Mr.K.Radhakrishnan
For Respondent : Mr.V.Siththaranjan das

ORDER

The suit has been laid by the respondent / plaintiff for recovery of money. It is found that the petitioner has been set ex-parte in the said suit on 11.10.2012. Following the same, it is found that execution proceedings have been levied by the respondent/plaintiff against the petitioner/defendant. Thereafter, it is found that the petitioner has preferred an interlocutory application to set aside the ex-parte decree passed against him and inasmuch as there was a delay of 1128 days, the application in I.A.No.72 of 2006 has been preferred to condone the said delay.

2.The only reason given by the petitioner for the condonation of the huge and inordinate delay is that he was suffering from jaundice and taking native treatment, and therefore, he could not meet his counsel and further according to him, after he got recovered from the illness, he engaged a new counsel and thus, the delay has occurred.

3.The above application filed by the petitioner was seriously contested by the respondent contending that only with a view to delay the execution proceedings and to prevent the respondent/plaintiff from enjoying the fruits of the decree, the petitioner has come up with the said application without assigning any sufficient and acceptable reason and hence, the application



preferred by the petitioner should be rejected. Further, according to the respondent, the petitioner had been all along taking part in the execution proceedings and only at the belated stage filed the application to set aside the *ex-parte* decree passed against him.

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4.The Court below has found that the petitioner has not given any sound and reliable reason for the condonation of the huge and inordinate delay. Further, the Court below has also observed that the petitioner has taken part in the execution proceedings levied against him by the respondent/plaintiff in the year 2015 itself and thereafter, conveniently, he has filed the application to set aside the *ex-parte* decree with the petition to condone the delay. Accordingly, it is found that the Court below has held that the petitioner has not given any acceptable reason for the huge delay and that apart the petitioner has also not *prima facie* established the reason put forth by him to condone the delay. Resultantly, the Court below has negatived the application preferred by the petitioner.

5.Considering the reasons given by the Court below, as rightly determined, inasmuch as the petitioner has not given any sufficient and acceptable reason for the condonation of delay and further, when it is found that the petitioner has filed the application only with a view to delay the execution proceedings, it is seen that the petitioner is not entitled for any indulgence. Accordingly, it is seen that the Court below has rightly dismissed the application preferred by the petitioner.

6.In the light of the above reasons, I am of the considered opinion that the impugned order does not call for any interference from this Court. Resultantly, this Civil Revision Petition is dismissed with costs.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To:

The District Munsif, Ramanathapuram.

+ 1 CC TO Mr.K.RADHAKRISHNAN, ADVOCATE IN SR No. 68917

MYR/SMI

TE/GT/SAR-IV : 18/08/2017 : 2P/3C

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