



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.04.2017

CORAM :

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CRP(NPD) (MD)No.1515 of 2011

and

MP(MD)No.1 of 2011

Mastan Ali

... Petitioner/Petitioner/
Defendant

vs.

A.Sahar Banu

... Respondent/Respondent/
Plaintiff

Petition filed under Section 115 of the Civil Procedure Code, against the fair and decreetal order passed in I.A.No.718 of 2010 in O.S.No.170 of 2006 dated 14.03.2011 on the file of the District Munsif Court, Melur, Madurai.

For Petitioner : Mr.V.Ramamoorthy
For Respondent : Mr.C.Gangai Amaran

ORDER

This revision petition is directed against the dismissal of Section 5 application filed by the defendant to set aside the ex parte decree passed in the suit on promissory note.

2.The facts of the case are that on 14.11.2004, the revision petitioner/defendant executed a pro note on borrowing Rs.48,000/- from the respondent/plaintiff. Thereafter, he did not pay the money and suit was filed against him for recovery of money. He did not respond to the summon served on him. After paper publication as a substitute service, the Trial Court has proceeded against him and passed the ex parte decree. Thereafter, interlocutory application for civil arrest was filed by the decree holder. At that juncture, the judgment debtor who is the revision petitioner herein, has filed an application to condone the delay of 1415 days to set aside the ex parte decree which was rightly dismissed by the Trial Court.

3.Aggrieved by that, present revision petition was filed in 2011 and this Court by order dated 05.08.2011, while ordering notice of motion, has granted interim stay on condition that the judgment debtor shall deposit Rs.15,000/- to the credit of EP within four weeks.



4. When the matter came up for hearing today, the judgment debtor submitted that he will deposit some more money and if delay is condoned, he will contest the case on merits.

5. After considering the facts of the case, this Court is of the opinion that if really the judgment debtor was interested in disposing the case, he should have vigilantly contested the matter at the earliest. Having failed to do so, he has approached this Court after the delay of 1415 days and even after the indulgence shown by this Court by way of granting stay of execution, for six years he has not shown any interest in settling the dispute.

6. Though there is no merit in his plea, this Court has shown indulgence in granting stay of the execution as early as on 05.08.2011. Since the delay is enormous and the reason for condoning the delay not properly explained, the Trial Court has rightly dismissed the Section 5 application. There is no illegality or irregularity in the said order.

Hence, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CSI)

/True Copy/

Sub-Assistant Registrar

To

The District Munsif Court,
Melur,
Madurai.

+One cc to Mr.V.Karuna, Advocate, SR.No.52343

+One cc to Mr.C.Gangai Amaran, Advocate, SR.No.52302

nbi

RL/4C/2P/MR/SAR4/27.4.2017

CRP(NPD) (MD) No.1515 of 2011