

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.01.2018

CORAM

THE HON'BLE MR. JUSTICE **D. KRISHNAKUMAR**

CMP.No.61 of 2018
and CRP.SR.No.86893 of 2017

Sadayan @ Govindasamy ... Petitioner

Vs.

P.Manoharan .. Respondent

PRAYER :

The Civil Miscellaneous Petition is filed under Section 5 of Limitation Act to condone the delay of 895 days in filing the CRP.SR.No.86893 of 2017.

For petitioner : Mr.K.G.Senthil Kumar

ORDER

According to the revision petitioner, the respondent herein has filed a suit in OS.No.166 of 2009 for mandatory injunction. In the aforesaid suit, the revision petitioner has filed written statement and thereafter due to unavoidable circumstances, the revision petitioner / defendant was unable to appear before the

court below on 14.02.2011 and thereby resulting in ex-parte decree was passed against the revision petitioner / defendant. Thereafter, the revision petitioner filed an application in IA.No.454 of 2014 to condone the delay of 1288 days in filing the petition to set aside the ex-parte decree. The aforesaid application was dismissed by the court below. Challenging the aforesaid order, the revision petitioner has filed the present Civil Revision Petition along with the Civil Miscellaneous Petition to condone the delay of 895 days in filing the Civil Revision Petition.

2. According to the learned counsel for the revision petitioner, due to bonafide reasons, the petitioner could not file the present Civil Revision Petition before this Court within the time. Therefore, the delay is neither wilful nor wanton and only due to the aforesaid bonafide reasons.

3. Considering the facts of the case, the petitioner was set ex-parte on 14.02.2011 and the application was filed in the year of 2014 in IA.No.454 of 2014 to set aside the ex-parte decree with a delay of 1288 days. The court below dismissed the said application. On perusal of the affidavit, supporting the above IA, the revision petitioner has stated that he was suffering from

jaundice and he was unable to contact his counsel and also he had not received any communication from his counsel. Thereafter, the revision petitioner engaged the present counsel and filed the above application. The court below has held that there is no satisfactory explanation submitted by the revision petitioner to condone the inordinate delay. Even challenging the said order, the present Civil Revision Petition has been filed with a delay of 895 days. On perusal of the present affidavit, it is seen that the revision petitioner has not adduced any satisfactory reason to condone the delay of 895 days. Therefore, this Court is not inclined to entertain the Civil Miscellaneous Petition and the same is liable to be dismissed.

4. In view of the above, the Civil Miscellaneous Petition is dismissed. Consequently, the Civil Revision Petition is rejected at the SR stage itself. No costs.

04.01.2018

Speaking / Non Speaking order
Index :Yes/No
Internet :Yes/No
lok

D.KRISHNAKUMAR.J,

lok

To
The District Munsif Court,
Vandavasi,
Tiruvannamalai District



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