



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.08.2018

CORAM

THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN

C.R.P.NPD[MD]No.915 of 2018

and

C.M.P.[MD]No.4028 of 2018

M.Sundaram

: Petitioner/Petitioner/
Appellant

Vs.

P.R.Sundaram

: Respondent/Respondent/
Respondent

PRAYER: Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure, praying to call for the records pertaining to the impugned order passed in I.A.No.54 of 2016 in Unnumbered A.S.No. of 2016 dated 28.11.2017 by the learned District Judge, Sivagangai and to set aside the same by allowing this Civil Revision Petition.

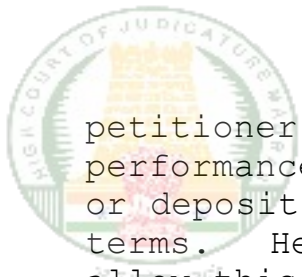
For Petitioner : Mr.V.A.Dhana Aravindha Balaji
for M/s.Dhana Law Associates
For Respondent : MrV.S.Kumaraguru

O R D E R

The revision petitioner was the defendant in O.S.No.57 of 2007, on the file of the Subordinate Court, Sivagangai. The suit was filed by the respondent herein seeking the relief of specific performance. The suit was contested by the petitioner herein. It was decreed on 07.10.2010. The revision petitioner filed the first appeal, challenging the said decree on 08.06.2016. Almost six years had elapsed in the meanwhile. To condone the same, he filed I.A.No.54 of 2016. The same was dismissed by order dated 28.11.2017. The correctness of the said order is questioned in this Civil Revision Petition.

2.Heard the learned Counsel on either side.

3.The learned Counsel for the revision petitioner pointed out that after losing the suit in October 2010, the revision petitioner had handed over the papers to his Counsel by name Thiru.Siva Iyappan. The said Counsel passed away. The revision petitioner had difficulties in getting the papers which he had entrusted to the Counsel. Thus, there occurred the long delay in filing the first appeal. The learned Counsel for the revision



petitioner would further plead that the suit is one for specific performance and his dwelling house is at stake. He offered to pay or deposit the entire amount and is ready to be put on appropriate terms. He wanted this Court to adopt an equitable approach and allow this Civil Revision Petition.

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4.This Court is unable to agree with the submissions of the learned Counsel for the revision petitioner. As rightly pointed out by the learned Counsel for the respondent, the suit was a contested one. The Counsel to whom the revision petitioner has entrusted the appeal brief passed away only in the year 2013. Therefore, there is absolutely no explanation for the delay for the period from 2010 to 2013. He also pointed out that the children of the revision petitioner had filed claim petitions in the execution petition. After the dismissal of the claim petitions, the present appeal came to be filed. This, according to the learned Counsel for the respondent would show the complete lack of *bona fide* on the part of the revision petitioner.

5.I am in full agreement with the aforesaid objections raised by the learned Counsel for the respondent. The Court below had dismissed the Interlocutory Application filed by the revision petitioner for these very reasons. The delay in this case is for a period of 2072 days. It is an inordinate delay and no sufficient cause has been made out for condoning it. Affirming the order passed by the Lower Court, this Civil Revision Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar (CS-I)

To

The District Judge,
Sivagangai.

+1cc to M/s.Dhana Law Associates, SR.No.78012
Mr
MK/SKN/SAR 1/05.09.2018/2P/3C

ORDER MADE IN
C.R.P.NPD[MD]No.915 of 2018
09.08.2018