



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.08.2018

CORAM :

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (MD) (NPD) No.1411 of 2018

and

C.M.P. (MD) No.6061 of 2018

R.Devi Meenakshi ...Petitioner/Petitioner/ 1st Defendant
/Vs./

K.Palpandi ...Respondent / Respondent / Plaintiff

Prayer: Civil Revision Petition - filed under Section 115 of the Civil Procedure Code, to call for the records and to set aside the order dated 07.11.2017 passed in I.A.No.202 of 2017 in O.S.No.547 of 2014 on the file of the Principal District Munsif, Madurai.

For Petitioner : Mr.S.Balamohan
For Respondent : Mr.M.Malai Arasan

ORDER

The petitioner is the first defendant in O.S.No.547 of 2014 on the file of the District Munsif Court, Madurai. It is a suit for recovery of possession. The suit was decreed exparte on 12.08.2014. To set aside the same, the revision petitioner filed an Interlocutory Application under Order 9 Rule 13 CPC. There was delay in filing the said Interlocutory Application. To condone the same, he filed I.A.No.202 of 2017 and the same was dismissed by order dated 07.11.2017. The correctness of the said order is assailed in this Civil Revision Petition.

2. Heard the learned counsel on either side.

3. The learned counsel appearing for the revision petitioner submitted that the suit was filed by her father-in-law. The second defendant was her husband. The second defendant remained exparte. The property in question belongs to her father-in-law. The revision petitioner was admittedly served with the suit summons. The matter was posted for her appearance on 12.08.2015. The revision petitioner was more interested in prosecuting the case filed against the plaintiff and her husband before the Mahila Court under the provisions of the Prevention of Women from Domestic Violence Act, 2005. The revision petitioner has stated that since she is suffering from Jaundice, she could not file the said application. The delay in this case is not nominal.



4. Admittedly, there was a delay of 466 days in filing the set aside application. The reasons given by the revision petitioner are not correct. The Court below, therefore, rightly dismissed the Interlocutory Application filed by the revision petitioner. As rightly observed by the Court below, assuming that the petitioner was suffering from in-health, the same would have continued for one month or two.

5. In any event, the petitioner has not given any explanation in condoning the delay of 466 days. The reasons assigned by the Court below are sound and acceptable. There is no merit in the Civil Revision Petition. Therefore, the civil revision petition is dismissed. No costs.

6. However, it is made clear that the dismissal of this civil revision petition will not in any manner have any bearing on the petition filed by the revision petitioner under the provisions of the Prevention of Women from Domestic Violence Act, 2005. The rights of the revision petitioner will be independently worked out under the said statute. Consequently, the connected Miscellaneous Petition is dismissed.

Sd/-

Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar

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To

1.The Principal District Munsif, Madurai.

2.The Record Keeper, Vernacular Section, (2 COPIES)
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.M.Malai Arasan, Advocate in SR No.79505

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NM/SV/SAR 2/18.09.18/2P/5C



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