



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.09.2018

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(MD) (NPD)No.545 of 2016

and

C.M.P.(MD)No.2352 of 2016

P.Murugesan

...Revision Petitioner / Petitioner /
Defendant

/Vs./

A.Thamil selvi

...Respondent / Respondent / Plaintiff

Prayer: Civil Revision Petition - filed under Section 115 of the Civil Procedure Code, to call for the records and set aside the dismissal order passed in I.A.No.218 of 2015 in O.S.No.238 of 2011 dated 04.11.2015 on the file of Additional Sub Court, Dindigul by allowing this civil revision petition.

For Petitioner : Mr.D.Selvaraj

For Respondent : Mr.S.Madhavan

ORDER

The defendant in O.S.No.238 of 2011 on the file of the Additional Sub Court, Dindigul is the revision petitioner herein. It is a suit for specific performance. The suit was decreed exparte on 28.11.2012. To execute the same, E.P.No.166 of 2013 was also filed. At that stage, the revision petitioner filed an application for setting aside the exparte decree. There was delay. Therefore, I.A.No.218 of 2015 was filed for condoning the delay of 817 days. The Court below, by an order dated 04.11.2015, dismissed I.A.No.218 of 2015. Questioning the same, the civil revision petition has been filed.

2. The learned counsel appearing for the revision petitioner reiterated the contentions set out in the memorandum of grounds.

3. I am unable to agree with the same. As rightly pointed by the learned counsel appearing for the respondent, the specific performance suit was laid on the strength of a registered sale agreement. The plaintiff had issued a lawyer notice on 22.03.2011. Even though the revision petitioner received the same, he did not choose to respond. In the suit, the revision petitioner initially entered appearance, but did not turn up later. Written statement was also not filed. Even though the suit was filed on 25.04.2011, an exparte decree came to be passed only on 28.11.2012.



4. The Court below, only after considerable deliberation and giving an opportunity to the revision petitioner, passed the said exparte decree. E.P.No.166 of 2013 was filed on 11.09.2013. Sale deed was executed on 18.12.2014. Only when the matter was posted for delivery of possession, the present Interlocutory Application in I.A.No.218 of 2015 came to be filed. The delay is inordinate. No convincing reason has been set out in the affidavit filed in support of the delay petition. The Court below rightly dismissed I.A.No.218 of 2015 in O.S.No.238 of 2011 in question. Therefore, the impugned order does not warrant any interference. There is no merit in the civil revision petition. Accordingly, the civil revision petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is dismissed.

Sd/

Assistant Registrar (CS-I)

/True copy/

Sub Assistant Registrar (CS-I)

To

The Additional Sub Judge, Dindigul.

+1cc to Mr.S.Madhavan, Advocate, SR.No. 82387

C.R.P. (MD) (NPD) No.545 of 2016
03.09.2018

SM

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