

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2019

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THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CRP(NPD).No.975 of 2010

Annamalai ... Petitioner/Defendant

Versus

Muniammal ... Respondent/Plaintiff

This Civil Revision Petition has been filed under Section 115 of C.P.C., to set aside the order dated 08.12.2009 in I.A.No.2286 of 2007 in CMA.No.28 of 2003 passed by the learned Principal District Judge, Kancheepuram.

For Petitioner : Mr.S.Ramesh

For Respondent : No appearance

J U D G M E N T

This Civil Revision Petition is filed under Section 115 of C.P.C., to set aside the order dated 08.12.2009 in I.A.No.2286 of 2007 in CMA.No.28 of 2003 passed by the learned Principal District Judge, Kancheepuram.

2 The respondent herein filed a suit for declaration of title and recovery of possession and suit was dismissed for default. Thereafter, she filed I.A.No.221 of 2002 for restoration of the suit and the same also got dismissed and hence, she filed CMA.No.28 of 2003 before the Principal District Court, Kancheepuram. When the CMA was pending before the said Court, the matter was referred to Lok Adalath. In the Lok Adalat, parties have agreed for a compromise and the terms of compromise was reduced into an award and the award has also come into force, wherein, respective counsel have also signed. Based upon the award of Lok Adalt, the Civil Miscellaneous Appeal was closed.

3 On the above factual grounds, the defendant in the suit filed an Interlocutory Application viz., IA.No.2286 of 2007 to condone the delay of 632 days in filing the petition and to set aside the comprise decree in CMA.No.28 of 2003, dated 02.12.2004, on the ground that only during the execution proceedings, he came to know that there is a correlation defect with regard to paimash number and survey number, the lands which are in his possession are now sought to be recovered and hence, he filed Interlocutory Application to set aside the decree passed in CMA based upon Lok Adalath award and thus, petition I.A.No.2286 of 2007 is to condone

the delay of 632 days.

4 The learned Principal District Judge has observed that on a perusal of compromise decree dated 02.12.2004 passed by the Lok-Adalth of Court discloses that the petitioner herein has signed along with his present counsel. Besides, there is no convincing reason to seek the condonation of inordinate delay of 632 days and consequently, dismissed the IA. Hence, the CRP.

5 The learned counsel for the revision petitioner/defendant would contend that initially he filed a suit and the same was returned with an endorsement that since it was a compromise decree, the same cannot be questioned by way of independent suit and hence, on legal advise, the petitioner had moved the very same Court, viz., the learned Principal District Judge, Kancheepuram District, at Chengalpattu and as there was a delay, the said petition has been filed to condone the delay.

6 Attention of this Court was drawn to the averments made in the affidavit. After hearing both the parties, it is seen that impugned award has been passed by the Lok Adalath under the Legal Services Authorities Act. Therefore, the question of setting

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aside the said award by way of suit does not arise. However, it is open to the party to challenge the Award in the manner known to law.

7 In the result, the Civil Revision Petition stands dismissed with the above observations and the order passed in I.A.No.2286 of 2007 in CMA.No.28 of 2003 by the learned Principal District Judge, Kancheepuram, dated 08.12.2009, is confirmed. No costs.

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Speaking Order:Yes/No

To

The Principal District Judge,
Kancheepuram.

03.12.2019

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