

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.11.2019

CORAM :

The HON'BLE MR.JUSTICE M.DURAI SWAMY

C.R.P.No.1673 of 2012

Ponnusamy

... Petitioner

Vs.

John Selvanathan (Died)

2.Rita Arokkiya Mary

3.Peter Salamon

4.Angel Mary

... Respondents

(R2 to R4 brought on record the LRs of the deceased sole respondent vide order dated 11.07.2019)

Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 14.07.2011 made in I.A.No.9 of 2011 in I.P.No.26 of 1996 on the file of the Principal Sub Court, Salem.

For Petitioner : Mr.N.Manokaran

For Respondents : R2 to R4 - no appearance

R1 - died (steps taken)

O R D E R

Challenging the fair and final order passed in I.A.No.9 of 2011 in I.P.No.26 of 1996 on the file of the Principal Sub Court, Salem, the petitioner in the Insolvency Petition has filed the above Civil Revision Petition.

2.The Insolvency Petition in I.P.No.26 of 1996 filed by the petitioner was dismissed for non-prosecution on 23.12.2004. Thereafter, the petitioner took out an application in I.A.No.9 of 2011 to condone the delay of 1895 days in filing the application to restore the Insolvency Petition. In the affidavit filed in support of the petition, the petitioner has stated that he was suffering from Blood Pressure and that his counsel failed to inform him about the date of hearing, which resulted in the delay of 1895 days in filing the application. The Court below took into consideration the averments stated in the affidavit filed in support of the petition and dismissed the application finding that the petitioner has not given sufficient cause for the inordinate delay of 1895 days.

3.As rightly observed by the trial Court, the petitioner has not contended that he was bed-ridden all these years and that medical reason given by the petitioner is not supported by

any medical certificate. When the delay is inordinate, the petitioner should have established the averments stated in the affidavit filed in support of the petition by adducing oral and documentary evidences. Mere averments in the affidavit is not sufficient to condone the inordinate delay of 1895 days.

4.In the judgment reported in (2015) 1 Supreme Court Cases 680 [H.Dohil Constructions Company Private Limited Vs. Nahar Exports Limited and another] the Hon'ble Supreme Court held that unless sufficient cause is shown by the party seeking for condonation of delay, the delay should not be condoned.

5.The ratio laid down by the Hon'ble Supreme Court squarely applies to the present case.

6.In these circumstances, I do not find any error or irregularity in the order passed by the trial Court. The Civil Revision Petition is devoid of merits and the same is dismissed. No costs.

Sd/-

Assistant Registrar

// True Copy//

Sub Assistant Registrar

va

To

The Principal Sub Court, Salem.

+1cc to Mr.N.Manokaran, Advocate, SR.No.96222.

सत्यमेव जयते

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AD (CO)
CSR(20/12/2019)

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