

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

C.R.P.(NPD).No.3603 of 2013

V.Janardanam

... Petitioner

Vs.

1.V.Deenadayalan

2.Bhuvaneshwari

3.Shanthi

4.Jayanthi

... Respondents

Civil Revision Petition filed under Section 115 of the Civil Procedure Code against the order dated 11.06.2013 passed by the I Assistant Judge, City Civil Court, Chennai in I.A.No.13773 of 2012 in O.S.No.1534 of 2009.

For Petitioner : Mr.C.Jayaprakash

For Respondents : Mr.A.Prabhakaran (R1)

R2 to R4 - Not Ready in notice

ORDER

Challenging the fair and final order passed in I.A.No.13773 of 2012 in O.S.No.1534 of 2009 on the file of the I Assistant Judge, City Civil Court, Chennai, the plaintiff has filed the above Civil Revision Petition.

2.The plaintiff filed the suit in O.S.No.1534 of 2009 for partition and other reliefs.

3.When the suit was posted for trial in the Special List on 02.09.2010, the plaintiff failed to appear before the trial Court and therefore, the suit filed by him was dismissed for non-prosecution. Thereafter, after a delay of 730 days, the petitioner filed an application under Order 9 Rule 9 of the Civil Procedure Code to restore the suit, which was dismissed for default on 02.09.2010.

4.In the affidavit filed in support of the petition, the petitioner has wrongly stated that the suit was posted on 02.09.2010 for taking summons to the defendants 2 to 4. However, the trial Court, while dismissing the application, observed that the suit was posted for trial in the Special List on 02.09.2010 and it was not posted for taking summons to the defendants.

5.It is settled position that a party seeking for condonation of the delay should give acceptable reasons and in the absence of the same, the delay cannot be condoned.

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6.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 a party seeking for condonation of the delay should give sufficient cause.

7.The other reason stated by the petitioner for condoning the delay was that the bundle got misplaced in his counsel's office.

8.The inaction on the part of the plaintiff for two years would clearly establish that he was not diligent in prosecuting the matter in a proper manner. The reasoning given by the petitioner for condoning the inordinate delay of 730 days was rightly rejected by the trial Court. 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.

Index : Yes/No

Speaking/Non-speaking order
va

To

1.The I Assistant Judge,
City Civil Court,
Chennai.

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M.DURAIWAMY,J.

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