

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.03.2019

CORAM

THE HONOURABLE **Ms.JUSTICE P.T.ASHA**

CRP.(NPD)Nos.212 & 213 of 2016 and
CMP.No.1075 of 2016

K.V.Ruthrakumar

..Petitioner/Petitioner

Vs

1. Major. C.Chandrasekar
2. P. Muthuraj
3. R. Nagarajan
4. N. Sekar

...Respondents/Respondents

PRAYER in CRP.No.212 of 2016: Civil Revision Petition filed under Section 115 of Civil Procedure Code praying to set-aside the fair and decreetal order in I.A.No.1080 of 2013 in O.S.CFR.No.16459 of 2008 dated 30.04.2015 passed by the learned Principal District Judge, Coimbatore and thereby allow the above Civil Revision Petition.

PRAYER in CRP.No.213 of 2016: Civil Revision Petition filed under Section 115 of Civil Procedure Code praying to set-aside the fair and decreetal order in I.A.No.1081 of 2013 in O.S.CFR.No.16459 of 2008 dated 30.04.2015 passed by the learned Principal District Judge, Coimbatore and thereby allow the above Civil Revision Petition.

For Petitioner : Mr. A. Rajesh Kanna
For Respondents : Mr. P. Saravana Sowmiyan

COMMON ORDER

The above Civil Revision Petitions are filed challenging the common order dated 30.04.2015 in IA.No.1080 of 2013 (for condoning the delay of 1849 days in representing the plaint) and I.A.No.1081 of 2013 (for condoning the delay of 1849 days in paying the deficit court fee in OS.CFR.No.16459 of 20018.)

2. The suit filed by the revision petitioner is one for specific performance of an agreement dated 09.11.2004. As per the terms of the contract, according to the revision petitioner, the respondent had not acted, thereby constraining him to file the suit. It is seen from the order of the Court below that the suit was valued at Rs.14,01,000/- and the Court-fee payable was Rs.1,05,078/-. However, only a sum of Rs. 5,000/- was paid and the plaint was returned on 30.07.2008 for rectifying the defects, including payment of deficit Court Fee. However, there has been no application moved by the revision petitioner seeking extension of time for paying the balance court fee. The Court below granted one month's time for compliance and that has been expired on 29.07.2008. Nearly 5 years thereafter, that is on 21.10.2013, the impugned petitions have been filed. The reason that has been given for the delay is the non availability of court-stamps and apart from that no other reason has been given.

3. With reference to the delay in representing the plaint, the revision petitioner has stated that he was ill and was in bed over an year taking

ayurvedic treatment and therefore he did not know where the bundle was kept. The respondent/defendant had opposed the above said applications and thereafter the Court by an order dated 30.04.2015 was pleased to dismiss the said applications, as against which the revision petitioner is before this Court.

4. Heard the counsel on either side. From the records, it is seen that there has been inordinate delay both on account of representation of the plaint as well as payment of Court fee. The inordinate delay in the representation of the plaint has not been properly explained. Further, it is a fact that the revision petitioner was unable to even pay the balance Court fee of Rs. 1,01,078/- within time. From the records, it is seen that there is lack of readiness and willingness on the part of the revision petitioner. Further, no sufficient cause has been shown for the delay and accordingly, the Court below has rightly rejected both the applications. Since the plaint has been returned without being taken on file, the petitioner is entitled to the refund of the Court fee as per law.

5. I find no infirmity in the common order passed by the learned Principal District Judge, Coimbatore. Accordingly, Civil Revision Petitions stand dismissed. No costs. Consequently, connection Miscellaneous Petition is closed.

08.03.2019

Index: Yes/No
Internet: Yes/No
Speaking order / Non-speaking ordermrn

P.T.ASHA, J.

To
The Principal District Judge,
Coimbatore.



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