

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.04.2019

CORAM

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

CRP.(NPD).No.45 of 2018

and

CMP.No.153 of 2018

K.Velu

..Petitioner/4th Defendant

Vs

1.Jayalakshmi

2.Krishnamoorthy

..Respondents/Plaintiffs

This Civil Revision Petition filed under Section 115 of the Code of Civil Procedure to set aside the fair and final order dated 15.09.2017 made in REA.No. 31 of 2017 in REP.No.15 of 2014 in O.S.No. 451 of 2004, on the file of the learned District Munsif Court, Rasipuram.

For Petitioner : Mr.A.E.Ravi Chandran
For R1 : M/s.Zeenath Begam
For R2 : No appearance

ORDER

The above Civil Revision Petition is filed challenging the order passed in E.A.No. 31 of 2017 in R.E.P.No.15 of 2014, in and by which, the judgment debtor seeks to have the delay of 569 days, for setting aside the ex-parte order in the execution petition.

2 The brief facts necessary to dispose of the petition are as follows:

The respondents herein who are the plaintiffs in the Suit

Rasipuram, had obtained a decree for declaration, mandatory injunction and permanent injunction on 08.08.2006. It appears that the revision petitioner/4th defendant had filed the First Appeal with a delay of 71 days and for which an application in I.A.No. 367 of 2006 was filed to condone the delay of 71 days. The said Interlocutory Application was allowed on condition that a sum of Rs. 250/-, be paid to the decree holder. Since the said conditional order was not complied with the First Appeal came to be dismissed by order dated 29.08.2007 and there is no application filed to restore the said interlocutory application.

3 Thereafter, an application in R.E.A.No. 31 of 2017 was filed to condone the delay of 569 days in filing the application to set aside the ex-parte order in E.P.No. 15 of 2014, dated 15.09.2014. This petition was filed on 07.04.2016, which after contest was dismissed by an order dated 15.09.2014, by the District Munsif, Rasipuram. Challenging this order, the revision petitioner is before this Court.

4 Heard the counsel on either sides.

5 A mere perusal of the affidavit, which is filed in support of the impugned petition would clearly demonstrate that no

reasons whatsoever have been given by the judgment debtor to condone this inordinate delay of 569 days. Except for stating that he was set ex-parte on 15.09.2014, no other reasons have been given by the fourth defendant. That apart, it is only fourth defendant, who is contesting execution proceedings and other defendants have not done so.

6 Be that as it may, considering the fact that application is bereft of details, this Court finds no infirmity in the order passed by the learned District Munsif, Rasipuram, it is a settled principle of law that in order to seek a condonation of the delay, sufficient cause has to be shown by the petitioner. In the instant case no cause has not been exhibited much less a sufficient cause by the petitioner/4th defendant.

7 In the result, the Civil Revision Petition is dismissed and the order passed in REA.No.31 of 2017 in REP.No.15 of 2014 in O.S.No.451 of 2004, on the file of the learned District Munsif Court, Rasipuram is confirmed. No costs. Consequently, connected miscellaneous petition is also closed.

P.T.ASHA, J.

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

To

The District Munsif Court,
Rasipuram.

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