

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.11.2019

CORAM

THE HON'BLE MR.JUSTICE R. SURESH KUMAR

C.R.P.No.3652 of 2019
and C.M.P.No.23983 of 2019

Arulmigu Kasi Vishwanadhar Temple
Represented by its Executive Officer
Arni Town,
Tiruvannamalai District-632 301.

... Petitioner

-Vs-

Sri Pathi Rao Nainar (Deceased)
represented by his Legal Heirs

1.Uthra Kumari
2.Jeba Raj
3.Geetha
4.Subhashini

... Respondents

(Cause Title accepted vide Court order
dated 05/08/2019 made in CMP.No.16105/2019
in CRP.SR.No.64919/2019)

Prayer : Civil Revision Petition under Article 227 of the
Constitution of India against the fair and decreetal order dated
28.02.2006 passed in I.A.No.198 of 2002 in O.S.No.149 of 1990 on
the file of District Munsif Court at Arni, Thiruvannamalai
District.

For Petitioner : Mr.A.Prabhakaran

O R D E R

This revision petition has been filed against the fair and
decreetal order dated 28.02.2006 passed in I.A.No.198 of 2002 in
O.S.No.149 of 1990 on the file of District Munsif Court at Arni,
Thiruvannamalai District.

2. Before the trial Court, the suit has been laid by the
respondents / plaintiffs for declaration in respect of the suit
property, where on 26.10.1993, when the case was posted for
hearing, the defendant was not present and therefore, they were
set exparte and the suit was decreed exparte. Thereafter,
nearly after ten years ie., after 3031 days, the revision

petitioner / defendant chose to approach the Court to file a petition to set aside the exparte decree dated 26.10.1993, where, since there has been a delay of 3031 days, in order to condone the said huge delay, a petition under Section 5 of the Limitation Act was filed, which was heard and rejected by the trial Court, as against which the present revision has been filed.

3. Heard the learned counsel for the revision petitioner, who would reiterate the reasons stated in the affidavit filed in support of the application ie., on 26.10.1993, when the case was posted before the trial Court, the Executive Officer of the revision petitioner temple could not attend the Court, as the then Executive Officer's higher officials directed him to attend a work at Tiruvannamalai and therefore, he could not appear and accordingly the defendant was set exparte and an exparte order was passed. Thereafter, it is the case of the revision petitioner that the case papers got mixed up with old files of the temple and after nine years, they have now come forward with the present application.

4. Except stating these vague reasons, nothing else has been stated and no proof has been filed. Assuming that, on the particular day the Executive Officer could not be present before the trial Court and resultantly the defendant was set exparte and thereafter though it was the duty of the Executive Officer to persuade the matter, only after a long slumber of 9 or 10 years they came forward with a flimsy reason to condone the delay of more than 3000 days. Such kind of petitions cannot be entertained.

5. The Honourable Supreme Court has repeatedly held that, there must be acceptable and plausible reasons on the part of the litigant for condoning the delay, without which the delay cannot be condoned. Here, in the case in hand, the suit was decreed sometime on 1993 and after nine years ie., in 2002, this application has been filed to condone the delay and to set aside the exparte decree, whereas absolutely there is no reason given by the revision petitioner / defendant for such a huge delay.

6. Condoning delay cannot be treated as a matter of course and it is not the routine duty of the Court that every time when it is filed, it should be automatically accepted and allowed, whatever be the delay and whatever be the reasons stated therein.

7. If this kind of petitions are entertained, that too, to condone such a huge delay of 3031 days, without even a single acceptable reason, then it will set a very wrong precedent and

the litigants will take the Courts for a ride and file petitions according to their whims and fancies at any point of time, that too for flimsy and unworthy reasons. Therefore, this Court feels that this kind of petition should not be entertained and encouraged. Hence, the decision taken by the Court below in rejecting the said application under Section 5 of the Limitation Act through the impugned order, is fully justifiable and completely sustainable. Hence, it does not require any interference by this Court.

8. In the result, this Civil Revision Petition fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The District Munsif,
Arni, Thiruvannamalai District.

+1 cc to M/s.A.Prabhakaran, Advocate Sr.No. 94187

AKM/12.12.19/3P-3C /

C.R.P. (NPD) No.3652 of 2019

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