

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2019

C O R A M

THE HON'BLE Mr.JUSTICE ABDUL QUDDHOSE

C.R.P.(NPD) No.2714 of 2014 &
M.P.No.1 of 2014

Dhanapal ... Petitioner

Vs.

Soundarrajan ... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India against the fair and final order of Additional District Munsif Court, Tiruchengode, dated 23.07.2013 made in I.A.No.84 of 2013 in O.S.No.142 of 2011.

For Petitioner ... Mr.S.Sounthar

For Respondent ... Mr.Ma.P.Thangavel

ORDER

The instant civil revision petition has been filed challenging the order dated 23.07.2013 passed by the learned Additional District Munsif Court, Tiruchengode in I.A.No.84 of 2013 in O.S.No.142 of 2011.

Brief facts leading to the filing of the instant revision:

2. The petitioner is the defendant and the respondent is the plaintiff in the suit O.S.No.142 of 2011. The suit O.S.No.142 of 2011 was filed for recovery of possession of the suit schedule property against the petitioner. The petitioner was set ex parte by the Trial Court, due to the non-appearance of the petitioner or his counsel and thereafter, an ex parte decree dated 29.09.2011 came to be passed against the petitioner in favour of the respondent. The suit was filed by the respondent based on the sale deed dated 09.06.2010 executed in favour of the respondent by the petitioner. The petitioner filed I.A.No.84 of 2013 in O.S.No.142 of 2011 seeking to condone the delay of 352 days in filing an application to set aside the ex parte decree dated 29.09.2011 against him.

3. A counter affidavit was also filed by the respondent in I.A.No.84 of 2013 stating that he has purchased the suit schedule property from the petitioner's father for a sale consideration of Rs.7,50,000/-, but despite purchasing the property for a valuable sale consideration, the petitioner failed to deliver the possession of the suit schedule property and hence, he was constrained to file the suit. Further he has also stated that no sufficient reasons have been given by the

petitioner for condoning the inordinate delay of 352 days in filing an application to set aside the ex parte decree. The Trial Court by its order dated 23.07.2013, dismissed I.A.No.84 of 2013 in O.S.No.142 of 2011 on the ground that sufficient reasons have not been given by the petitioner to condone the inordinate delay of 352 days.

4. Heard, Mr.Sounthar learned counsel for the petitioner and Mr.Ma.P.Thangavel, learned counsel for the respondent.

Discussion:

5. The Trial Court while dismissing the suit has also observed that several opportunities were granted to the petitioner/defendant to defend the case, but, despite those opportunities, the petitioner/defendant failed to defend the suit diligently.

6. Apart from perusing and examining the impugned order, this Court has also perused the copy of the plaint. Admittedly, there was a registered sale deed dated 05.11.2003 executed by the petitioner in favour of the respondent. Till date, the petitioner has not challenged the said sale deed dated 05.11.2003 by filing any legal proceedings to declare the said sale deed as null and void.

7. This being the case, it can now be inferred that the application filed by the petitioner seeking to condone the delay of 352 days to set aside the ex parte decree dated 29.09.2011 is only to protract the proceedings and nothing else. The Trial Court has rightly rejected I.A.No.84 of 2013 in O.S.No.143 of 2011 as no sufficient reasons have been given by the petitioner for condoning the inordinate delay of 352 days.

Conclusion:

8. In the result, there is no merit in the instant civil revision petition as there is no infirmity or illegality in the impugned order. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

14.06.2019

Index : Yes / No
Speaking/Non-Speaking orders

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To

The Additional District Munsif Court, Tiruchengode.



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ABDUL QUDDHOSE. J,

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CRP (NPD) No.2714 of 2014

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