

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.08.2019

C O R A M

THE HONOURABLE MR.JUSTICE M. GOVINDARAJ

CRP (PD) NO.2710 OF 2019

CMP NO.17850 OF 2019

Valarmathi ... Petitioner

Vs.

Dinesh Kumar ... Respondent

PRAYER: Civil Revision Petition filed under Section 115 of the Civil Procedure Code against the fair and decreetal order dated 21.06.2019 in I.A.No.219 of 2018 in O.S.No.13 of 2015 on the file of the Subordinate Court, Rasipuram.

For Petitioner : Mr.A.B.Reehana Begum
for Mr.T.R.Rajaraman

ORDER

The revision petitioner aggrieved over the dismissal of the petition filed to condone the delay in filing the petition to set aside the *exparte* decree has preferred this Civil Revision Petition.

2. This petition has a chequered history. The petitioner is the defendant in the suit. After institution of the suit, she was *exparte* and on the petition filed, the suit was restored to file. Thereafter, again

she was set *exparte* on 25.01.2016 and after five months, *exparte* decree came to be passed on 03.06.2016. After obtaining the *exparte* decree, the respondent filed an execution petition on 08.08.2016. At that juncture, the petitioner filed a petition to set aside the *exparte* decree dated 03.06.2016, with a delay of 86 days. The said petition was returned on 03.01.2017. However, the petitioner was not diligent in prosecuting the petition to set aside the *exparte* decree and the petition to condone the delay in filing it. The Execution Court, after service of notice, set the *petitioner exparte* on 23.01.2017. Again she filed a petition for setting aside the *exparte* order passed on 03.11.2017. Here also, she allowed the sale deed to be executed on 06.11.2017 and the execution petition was closed. The decree holder filed a fresh execution petition vide E.P.No.54 of 2017 for delivery of possession. Even in this execution petition, the petitioner was set *exparte* on 20.02.2018. This time, the *exparte* order was set aside on 02.03.2018. In the second execution petition, she filed her counter and the matter was posted for hearing on 18.06.2018. In the meanwhile, the petitioner had represented her petition on 27.09.2016 to set aside the *exparte* decree in O.S.No.13 of 2015 and the same was numbered as I.A.No.219 of 2018.

3. It is to be noted that the said interlocutory application was numbered after a period of two years. Considering the antecedents of the petitioner, the Trial Court refused to condone the delay and dismissed I.A.No.219 of 2018 vide order dated 21.06.2019. Against which, the petitioner is before this Court.

4. I have considered the antecedents of the petitioner. It appears that the petitioner is a habitual defaulter. A person, who is not diligent in prosecuting his/her case, is not entitled to any equitable relief. Therefore, the order passed by the Trial Court is justified and does not require any interference.

5. In fine, the Civil Revision Petition is dismissed. No costs. Consequently, connected civil miscellaneous petition is closed.

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Index : Yes/No
Internet : Yes/No
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M.GOVINDARAJ, J.

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To

The Sub Judge
Sub Court
Rasipuram.



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