

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.09.2019

CORAM:

THE HONOURABLE Mr.JUSTICE R.SURESH KUMAR

C.R.P.(PD)No.3649 of 2017

and

C.M.P.No.16992 of 2017

Panneerselvam

... Petitioner

Vs.

1.Kavitha
2.Radhakrishnan
3.Ramesh
4.Prakash
5.Rajesh
6.Sivapragasam
7.Subramanian
8.Sarangapani
9.The Sub Registrar,
Neyveli Main Road,
Kurinjipadi Taluk,
Cuddalore.

... Respondents

Prayer: Petition filed under Section 115 of the Civil Procedure Code praying to set aside the order dated 24.07.2017, passed in I.A.No.575 of 2016 in O.S.No.36 of 2011, on the file of the Principal District Judge, at Cuddalore.

For Petitioner : Mr.R.Chakkaravarthy

For Respondents : Mr.V.Balamurugane

ORDER

This revision has been filed as against the fair and decretal order dated 24.07.2017, passed by the Principal District Judge, Cuddalore District, Cuddalore in I.A.No.575 of 2016 in O.S.No.36 of 2011.

2.The 5th defendant in the suit filed the said I.A. under Section 5 of the Limitation Act, to condone the delay of 1050 days in filing the petition to set aside the exparte decree passed in the suit against the said defendant. Along with the said application, on behalf of the petitioner, no document has been filed, adducing the reasons for such a huge delay of more than 1000 days. Therefore, having examined the said position, the learned Judge, through the impugned order, rejected the said application stating that, no plausible or acceptable reason has been given to explain the said huge delay of 1050 days and accordingly, the learned Judge, through the impugned order, rejected the said application.

3.I have heard Mr.R.Chakkaravarthy, learned counsel appearing for the petitioner, who would submit that, the petitioner's son underwent a heart surgery and because of which, the petitioner could not concentrate on the issue. Therefore immediately, a petition could

not be filed to set aside the ex parte decree, with a result, there has been a delay of 1050 days and therefore, for the said reason only, the petitioner had been prevented from approaching the Court to look after the case.

4.Assuming that the petitioner's son underwent a surgery, that will not detain the petitioner to approach the Court to ascertain as to whether any adverse order has been passed against him and if so, what subsequent action has to be taken to rectify the same for a period of three years.

5.Law is well settled insofar as such a situation of huge delay is occurred, because of the long slumber of the litigant, in not approaching the Court in time, despite the limitation has been prescribed by the concerned statute.

6.If the delay is very minimal, the Court normally would not reject such plea and on terms, such pleas would be accepted.

7.However, herein the delay is very huge as 1050 days and for which, absolutely no reason had been given and no affidavit has been filed. In view of the position where absolutely no reason had been given on behalf of the petitioner for such a huge delay in approaching the Court to file the petition to set aside the exparte decree, the trial Court has rightly rejected the claim of the petitioner through the impugned order and this Court also finds no reason for interference in the said order and the learned counsel appearing for the petitioner also has not made out any case to interfere with the said impugned order.

8.In view of the same, this Civil Revision Petition fails and accordingly, the same is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

06.09.2019

Sgl

To

The Principal District Judge,
Cuddalore.

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R.SURESH KUMAR, J.

Sgl



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