

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2019

CORAM

THE HON'BLE MR.JUSTICE R. SURESH KUMAR

Civil Revision Petition No.3752 of 2019
and C.M.P.No.24650 of 2019

Chinnarasu

... Petitioner

-Vs-

1.Anbu @ Anbazhagan
2.The Commissioner
Dharmapuri Municipality
Dharmapuri Taluk
Dharmapuri District.

... Respondents

Prayer : Civil Revision Petition under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 06.08.2019 made in I.A.No.226 of 2019 in I.A.No.797 of 2010 in O.S.No.306 of 2010 on the file of the Court of District Munsif, Dharmapuri.

For Petitioner

: Mr.C.E.Pratap

ORDER

This revision has been filed against the fair and decreetal order dated 06.08.2019 made in I.A.No.226 of 2019 in I.A.No.797 of 2010 in O.S.No.306 of 2010 on the file of the Court of District Munsif, Dharmapuri.

2. Before the trial Court, the present petitioner was the plaintiff, who filed the suit in O.S.No.306 of 2010. In the said suit, he filed an application in I.A.No.797 of 2010 to appoint advocate commissioner. That application was allowed by an order dated 31.07.2014 and an advocate commissioner was appointed and remuneration

was fixed, which remuneration was directed to be paid to the advocate commissioner on or before 11.08.2014.

3. However, subsequently, the said remuneration was not paid in time. Therefore, the said I.A., appointing the advocate commissioner was rejected by the Court below.

4. Thereafter, after several years, the present application in I.A.No.226 of 2019 has been filed under Section 148 of C.P.C., seeking extension of time to pay the remuneration to the advocate commissioner who was appointed on 31.07.2014. The said application has been rejected through the impugned order, assailing which the present revision is filed.

5. Heard Mr.C.E.Pratap, learned counsel appearing for the petitioner who would submit that, though an order was passed on 31.07.2014, by which advocate commissioner was appointed and remuneration was also directed to be paid on or before 11.08.2014, however, subsequently, the revision petitioner / plaintiff fell ill and therefore he has been bed ridden for longer period and he could not contact his counsel immediately and thereafter in 2015 only he was able to contact the counsel and then only he came to know that time given by the Court to pay the advocate commissioner remuneration had elapsed and by virtue of the same, the application was rejected. Thereafter, the revision petitioner filed the present application

seeking extension of time.

6. I have considered the said reason given by the learned counsel for the revision petitioner and perused the materials placed on record, including the impugned order.

7. The suit is filed by the very revision petitioner himself, to establish his civil right, where he wanted to appoint an advocate commissioner and at his instance advocate commissioner was appointed and remuneration was fixed and some reasonable time was given by the trial court to the plaintiff / revision petitioner to pay the remuneration for advocate commissioner. If at all, within the said time, if the revision petitioner could not pay the remuneration, at least within some reasonable time, attempt could have been made by filing appropriate petition to seek extension of time. However, here in the case in hand, years together, no fruitful action has been taken by the revision petitioner and he seems to have not contacted the counsel for years together and even though health reasons has been taken, it cannot be condoned for the simple reason that it is the petition filed by the plaintiff / revision petitioner to appoint advocate commissioner and therefore, its development and further course should have been monitored by the revision petitioner. Therefore, he cannot simply come and say after years together stating health reasons that he could not contact the counsel. Moreover, the present

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application under Section 148 of C.P.C., was filed only in the year 2019, whereas the advocate commissioner was appointed in the year 2014 and the main suit is of the year 2010. Therefore, this attitude would clearly demonstrate that the revision petitioner has not shown any interest to pursue the suit itself.

8. This kind of litigants cannot be shown any leniency by the Court and this Court feels that there is absolutely no justification in the present application under Section 148 of CPC seeking extension of time. Hence, the rejection made by the trial Court through the impugned order for the reasons stated therein, is fully justifiable and hence this Court feels that the said order cannot be interfered with.

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

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To

District Munsif, Dharmapuri.

20-11-2019
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