

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2020

CORAM

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CRP.(NPD).No.4591 of 2010

and

MP.No.1 of 2010

K.Ravikumar

...Petitioner/2nd Defendant

Vs.

C.Perumal

...Respondent/Plaintiff

PRAYER: This Civil Revision Petition has been filed under Section 115 of CPC to set aside the judgment and decree passed by the Fast Track Court, Namakkal, made in I.A.No.3 of 2010 in O.S.No. 42 of 2004, dated 26.08.2010.

For Petitioner : Mr.S.Silambanan

For M/s. Profexs Associates

For Respondent : No appearance

ORDER

The Civil Revision Petition has been filed against the order passed by the Fast Track Court, Namakkal, in I.A.No.3 of 2010 in O.S.No. 42 of 2004, dated 26.08.2010.

2 The respondent herein has filed a suit in O.S.No.42 of 2004, before the Fast Track Court, Namakkal, for partition and the said suit was decreed ex-parte on 09.08.2007. As the second defendant/revision petitioner has not filed any written statement, the respondent herein/plaintiff has filed an application in I.A.No.15 of 2019 for passing of final decree. After receipt of notice in the final decree proceedings, one day prior to the filing of counter, revision petitioner/second defendant has preferred an application in I.A.No.3 of 2010, to set aside the preliminary decree passed in the said suit on 09.08.2007, on the ground that he was not aware and hence, there was a delay of 832 days in filing the petition to set aside the ex-parte decree/ preliminary decree. According to the counter filed before the Trial Court, it is 1500 days.

3 On perusal of the affidavit filed in support of the petition and also subsequent appearance of the party before the final decree proceedings, the order of dismissal passed by the Trial Court in rejecting the condone delay petition filed under Section 5 of the Limitation Act, is just and reasonable.

4 With the above observation, the Civil Revision Petition stands dismissed and the order passed by the Fast Track Court, Namakkal, made in I.A.No.3 of 2010 in O.S.No. 42 of 2004, dated 26.08.2010, is confirmed. No costs. Consequently, connected miscellaneous petition is also closed.

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Speaking Order:Yes/No

To
The Fast Track Court, Namakkal.

31.01.2020



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RMT.TEEKAA RAMAN., J.
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