



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.03.2020

Coram

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

CRP (NPD) No.1089 of 2020 and
CMP No.5926 of 2020

Velu ... Petitioner

Vs.

Loganathan ... Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 27.04.2018 passed in I.A.No.441 of 2018 in O.S.No.54 of 2008 by the District Munsif, Arakkonam, Vellore District.

For Petitioner : Mr.G.Rajesh

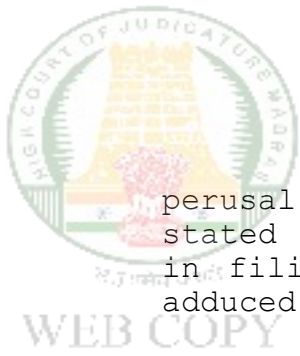
O R D E R

This Civil Revision Petition has been filed against the fair and decreetal order dated 27.04.2018 passed in I.A.No.441 of 2018 in O.S.No.54 of 2008 by the District Munsif, Arakkonam, Vellore District.

2. The petitioner herein is the 4th defendant in the suit in O.S.No.54 of 2008 and the respondent/plaintiff has filed the suit for declaration of his title and consequential permanent injunction. Pending suit, the petitioner herein was set exparte and exparte decree was passed on 27.10.2009. Hence, the petitioner filed a petition in I.A.No.441 of 2018 to condone the delay of 3023 days in filing the petition to set aside the exparte decree. That petition was dismissed by the Trial court. Challenging the above said order, this civil revision petition has been filed.

3. According to the petitioner, he had suffered from Jaundice and hence, he could not contact his counsel and only a week before filing the petition, he came to know about the exparte decree.

4. The respondent had filed counter affidavit, wherein he has stated about the conduct of the petitioner, who contested the other suits in those delayed period.



5. I have perused the materials on record. A perusal of the affidavit shows that the petitioner has not stated satisfied reasons for the inordinate delay of 3023 days in filing the above petition. The petitioner has not also adduced any oral or documentary evidence to condone the delay.

6. At this juncture, it is relevant to extract the decision rendered by the Honourable Supreme Court in H.Dohil Constructions Company Private Limited Vs. Nahar Exports Limited and another reported in (2015) 1 SCC 680.

24. ... The filing of an application for condoning the delay of 1727 days in the matter of refiling without disclosing reasons, much less satisfactory reasons only results in the respondents not deserving any indulgence by the court in the matter of condonation of delay. The respondents had filed the suit for specific performance and when the trial court found that the claim for specific performance based on the agreement was correct but exercised its discretion not to grant the relief for specific performance but grant only a payment of damages and the respondents were really keen to get the decree for specific performance by filing the appeals, they should have shown utmost diligence and come forward with justifiable reasons when an enormous delay of five years was involved in getting its appeals registered" .

7. The Trial Court after considering all the facts and circumstances of the case had elaborately discussed about the conduct of the petitioner and came to a conclusion that the petitioner has not made out a case for the inordinate delay of 3023 days in filing the petition to set aside the exparte decree. Hence, this court do not find any illegality or perversity in the orders passed by the Trial court and the same does not warrant any interference by this court.

8. In the result, this civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is dismissed. The order passed by the Trial court is upheld.

Sd/-

Assistant Registrar (CS-)

//True Copy//

Sub Assistant Registrar



To

The District Munsif,
Arakkonam,
Vellore District.

Nr (co)
krd 8/7

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