

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.03.2020

Coram

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

CRP (PD) No.1083 of 2020

Renganathan ... Petitioner/Petitioner/Defendant

Vs.

Gopal Chettiyar Respondent/Respondent/Plaintiff

Prayer: Civil Revision Petition filed under Section 115 of the Code of Civil Procedure to set aside the fair and decreetal order passed in I.A.No.247 of 2014 in O.S.No.203 of 2008 dated 26.09.2019 by the Principal Subordinate Judge, Vridhachalam.

For Petitioner : Mr.E.Durai

O R D E R

This Civil Revision Petition has been filed to set aside the fair and decreetal order passed in I.A.o.247 of 2014 in O.S.No.203 of 2008 dated 26.09.2019 by the Principal Subordinate Judge, Vridhachalam.

2. The petitioner herein is the first defendant in the original suit in O.S.No.203 of 2008 and the respondent herein/plaintiff filed the suit for recovery of money. The above said suit was decreed exparte on 20.04.2009. Thereafter, the petitioner herein filed a petition in I.A.No.247 of 2014 under Section 5 of the Limitation Act to condone the delay of 1761 days in filing a petition to set aside the exparte decree.

3. In the affidavit, the petitioner stated that while the suit was posted on 20.04.2009 for cross examination of PW1, the plaintiff approached the petitioner and stated that in view of the illness of the petitioner, " we will settle the dispute amicably among ourselves" . Believing the words of the plaintiff, the petitioner has not taken any steps to proceed the case and subsequently, he was taking treatment for his kidney failure. Thereafter, the plaintiff insisted the petitioner to pay huge amount. In such circumstances, a delay of 1761 days was occurred in filing the application to set aside the exparte order.

4. A perusal of the affidavit shows that the petitioner has not stated valuable reasons to condone the

inordinate delay. Further, to substantiate the contentions raised in the affidavit, he has not filed any documentary evidence, except the medical bills, which are not supported by the Doctor's prescription.

5. At this juncture, it is relevant to extract the decision rendered by the Honourable Supreme Court in H.Hohil 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" .

6. The suit has been filed on the basis of the promissory note. The Trial Court after considering all the facts and circumstances of the case has come to a conclusion that while the petitioner admitted his signature in the pronote, he cannot escape from the liability and he has waited for such a long period, without any merits. 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.

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

Sd/-

Assistant Registrar(CS-VI)

//True copy//

Sub Assistant Registrar

mst

To

The Principal Subordinate Judge, Virudhachalam.

CRP No.1083 of 2020

KJ(CO)

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GMI (27/07/2020)