

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.03.2020

Coram

The Honourable Mr.Justice D.KRISHNAKUMAR

**C.R.P(PD)No.1158 of 2020
and C.M.P.No.6235 of 2020**

Sakthivel

...Petitioner

Versus

Executive Officer,
Selection Grade Town Panchayat,
Pennagaram.

...Respondent

This Civil Revision Petition is filed under Section 115 of the Civil Procedure Code praying to set aside the fair order and decree dated 13.02.2020 made in I.A.No.379 of 2019 in O.S.No.58 of 2002 on the file of the District Munsif cum Judicial Magistrate Court, Pennagaram.

For Petitioner : Mr.G.Arul Murugan

For Respondent : Mr.Y.T.Aravind Gosh,
Government Advocate

ORDER

The relief sought for in the present Civil Revision Petition is to set aside the order dated 13.02.2020 passed by the learned District Munsif cum Judicial Magistrate, Pennagaram in I.A.No.379 of 2019 in O.S.No.58 of 2002.

2. The plaintiff in the suit is the petitioner herein.

3. The brief facts of the case are as follows:

The respondent/defendant assessed property tax and profession tax for the Kalyana Mandapam constructed by the petitioner/plaintiff in the year 1998-1999 after obtaining approval. The property tax for the assessment year 1998-1999 was fixed at Rs.13,485/- and the profession tax was fixed at Rs.600/-. In the next year, the property tax was revised arbitrarily almost double the existing rate. The property tax was assessed at Rs.26,970/- for the assessment year 1999-2000 and the profession tax was fixed at Rs.1,200/-. However, the petitioner/plaintiff objected to pay the aforesaid revised property tax and profession tax. Hence, the respondent/defendant

issued a notice dated 16.10.2002 to the petitioner/plaintiff demanding to pay the property tax fixed at the rate of Rs.26,970/- for the years 2000 to 2003 and made a demand for a total sum of Rs.1,26,730/-. Challenging the said demand notice, the petitioner/plaintiff filed the suit O.S.No.58 of 2002 against the respondent/defendant.

4. The respondent/defendant filed written statement denying the averments made by the petitioner/plaintiff in the plaint.

5. While the suit is pending before the District Munsif Court, Pennagaram, the petitioner/plaintiff filed an Interlocutory Application in I.A.No.213 of 2002 for interim injunction. The learned District Munsif, Pennagaram vide order dated 25.02.2003 allowed the said Application with a condition that the petitioner/plaintiff has to deposit the entire demand amount after adjusting the sum already paid by him. Against the said conditional order, the petitioner/plaintiff preferred an Appeal in C.M.A.No.18 of 2003 on the file of the Subordinate Court, Dharmapuri. The said Appeal was dismissed in the year 2019 on the ground that the suit

O.S.No.58 of 2002 itself was dismissed for default on 04.12.2017. Hence, the petitioner/plaintiff filed an Interlocutory Application in I.A.No.379 of 2019 for condoning the delay of 627 days in filing the restoration petition, however, the same was dismissed by the learned District Munsif cum Judicial Magistrate, Pennagaram on 13.02.2020. Aggrieved by the order of dismissal, the petitioner/plaintiff has filed the present Civil Revision Petition.

6. The learned counsel for the petitioner would submit that the petitioner/plaintiff was believing that the suit proceedings would not be taken up till C.M.A.No.18 of 2003 decided and therefore, he did not enquire about the suit proceedings. He would further submit that only when C.M.A.No.18 of 2003 was dismissed, the petitioner came to know that the suit O.S.No.58 of 2002 was dismissed for default on 04.12.2017. Hence, there was a delay of 627 days in filing the petition to restore the suit O.S.No.58 of 2002. Though the petitioner/plaintiff gave proper explanations for the delay in filing the restoration petition, however, the learned District Munsif cum Judicial Magistrate, Pennagaram mechanically

dismissed the condone delay Application filed by the petitioner/plaintiff. He therefore prayed that the impugned order may be set aside.

7. The learned Government Advocate appearing for the respondent submitted that the Court below was not satisfied with the reasons adduced by the petitioner/plaintiff for condoning the inordinate delay of 627 days in filing the restoration petition and therefore, I.A.No.379 of 2019 filed by the petitioner/plaintiff was dismissed.

8. Heard the learned counsel on both sides and perused the materials available on record.

9. From a perusal of the impugned order, it is seen that the reasons stated by the petitioner/plaintiff for condoning the enormous delay of 627 days in filing the restoration petition are not sufficient and convincing. Hence, the Court below had rightly dismissed the condone delay Application filed by the petitioner/plaintiff. I find no infirmity in the order of the Court below.

D.KRISHNAKUMAR, J.,

mrr

10. In the result, this Civil Revision Petition is dismissed and the order dated 13.02.2020 passed by the learned District Munsif cum Judicial Magistrate, Pennagaram in I.A.No.379 of 2019 in O.S.No.58 of 2002 is confirmed. No costs. Consequently, connected Miscellaneous Petition is closed.

mrr

Index : Yes/No

To

The District Munsif cum Judicial Magistrate,
Pennagaram.

18.03.2020

सत्यमेव जयते
WEB COPY

C.R.P(NPD)No.1158 of 2020