

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.07.2020

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

Civil Revision Petition (NPD) No.2035 of 2016

Palani

..Petitioner
/Appellant

Vs

Mubarak Basha

..Respondent/
Respondent

Prayer: Civil Revision Petition filed under Section 115 of Civil Procedure Code, against fair and decretal order dated 23.09.2014 in I.A.No.2/2013 in A.S.No.NIL/2013 on the file of District Judge, Thiruvannamalai.

For Petitioner : Mr.Prabhakaran
Mr.G.Rajan

For Respondents : Mr.R.Sathish Kumar
(No appearance)

ORDER

This Civil Revision Petition has been filed against the order dated 23.09.2014 in I.A.No.2/2013 in A.S.No.NIL/2013 on the file of District Judge, Thiruvannamalai.

2. Despite several opportunities being given to the learned counsel for the petitioner, he is not ready to argue the case.

3. It is seen from the records that the respondent has filed a suit in O.S.No.12/2007 on the file of Principal Subordinate Judge, Tiruvannamalai for specific performance of agreement of sale. The said suit was decreed, against which the petitioner herein filed an Appeal before the District Judge, Thiruvannamalai. As there is a delay of 714 days in filing the Appeal, he filed an Application under Order 41 Rule 3-A & Section 151 of Civil Procedure Code to condone the delay of 714 days in filing the Appeal which was dismissed by the District Judge, Tiruvannamalai on 23.09.2014, on the ground that the petitioner has not given sufficient reasons for condonation of delay. Challenging the same, the present Civil Revision Petition has been filed by the petitioner.

4. A perusal of records would go to show that the respondent filed a suit against the petitioner and got the decree against him. Being aggrieved by the same, the petitioner has filed an Appeal with a delay of 714 days. Hence, he filed a petition for condoning the delay of 714 days in filing the Appeal. The only reason stated by the petitioner is that he was affected by Jaundice and high fever and hospitalized and even his wife was affected by severe stomach pain and was hospitalized and the petitioner was forced to stay with her in the hospital. But, no documents have been adduced to prove his contention. Therefore, the reason is barred without any substance. The respondent has taken a stand that he filed Execution Petition in E.P.No.350/2011 on the file of Principal Subordinate Judge, Tiruvannamalai and the petitioner had refused to receive notice in the said Execution Proceedings and only after paper publication, he entered his appearance on 16.07.2012. Therefore, the Lower Appellate Court has rightly dismissed the application. Though the length of delay is not a matter, the parties should give valid reason for delay. But, in this case except the averment that the petitioner and his wife became sick and hospitalized, no document has been filed to prove the same. Under such circumstances, the reasons stated by the petitioner is not sufficient and this Court does not find any perversity in the order passed by the Lower Appellate Court.

5. In the result, the Civil Revision Petition is dismissed. No costs.

Consequently, connected CMP is closed.

13.07.2020

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To

1.The District Judge, Thiruvannamalai.

2.The Section Officer, V.R. Section, High Court, Madras



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P.VELMURUGAN,J.

arr/nvsri



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