

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.06.2021

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

C.R.P (NPD) No.1243 of 2018

and

C.M.P.No.6361 of 2018

M.Chandra

... Petitioner

Vs.

1. M.Vijaya Kumar

2. The Revenue Division Officer,
Chengalpattu,
Chengalpattu Firka and Taluk,
Kancheepuram District.

3. The Tahsildar,
Chengalpattu Firka and Taluk,
Kancheepuram District.

... Respondents

Prayer : Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, to set aside the fair and decretal order dated 16.11.2017 passed in I.A.No.1171 of 2016 in O.S.No.447 of 2004 on the file of the District Munsif Court at Chengalpattu.

For Petitioner : Mr.S.Sugendran

For Respondents : Mr.J.Arun Prasad (for R-1)
: Mr.A.E.Ravichandran
Government Advocate (CS)
(for R-2 & R-3)

ORDER

This Civil Revision Petition is directed against the fair and decretal order passed in I.A.No.1171 of 2016 in O.S.No.447 of 2004 dated 16.11.2017 on the file of the learned District Munsif Court, Chengalpattu, thereby dismissing the petition to condone the delay of 2193 days in filing the application to set aside the ex-parte decree.

2. The petitioner is the first defendant and the first respondent is the plaintiff. The first respondent filed the suit for declaration and permanent injunction in respect of the suit property. After receipt of the summons, the petitioner entered appearance through her advocate and filed a written statement on 12.04.2005. Thereafter, when the suit was posted for trial on 13.07.2010, the petitioner was called absent since there was no representation on behalf of her. Therefore, the petitioner was set ex-parte on the same day and the first respondent was examined as P.W.1 and documents were marked as Ex.A.1 to Ex.A5 and it was adjourned to 21.07.2010. In fact, on 21.07.2010, the said P.W.1 was cross examined by the defendants 2 and 3. The defendants 2 and 3 reported no oral evidence and the suit was posted for arguments on 26.07.2010 and the ex-parte judgment and decree was passed on

29.07.2010. That apart, the petitioner through her counsel applied for certified copy of the judgment and decree on 20.10.2010 and 16.12.2010. However, the petitioner filed a petition to set aside the ex-parte decree with the huge delay of 2193 days.

3. On a perusal of the affidavit filed in support of the condone delay petition, it reveals that the petitioner fell ill during the trial of the suit and as such, she was unable to frequently move from one place to another place. Therefore, she was unable meet her counsel and as such, she was set ex-parte. To substantiate the said contention, the petitioner did not even produce any of the material evidence. Therefore, the Court below rightly dismissed the petition and this Court finds no infirmity or illegality in the order passed by the Court below.

4. Accordingly, this Civil Revision Petition is dismissed. Consequently, the connected Miscellaneous Petition is closed. No costs.

WEB COPY

23.06.2021

kv

Index :Yes/No

Internet : Yes/No

G.K.ILANTHIRAIYAN,J.

kv

To

1. The Revenue Division Officer,
Chengalpattu,
Chengalpattu Firka and Taluk,
Kancheepuram District.
3. The Tahsildar,
Chengalpattu Firka and Taluk,
Kancheepuram District.
3. The District Munsif Court, Chengalpattu.
4. The Section Officer,
V.R. Section, High Court of Madras.

C.R.P (NPD) No.1243 of 2018

WEB COPY

23.06.2021



WEB COPY