

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

C.R.P.(PD)No. 780 of 2021 and
C.M.P.No.6529 of 2021

R. Krishnakanth

...Petitioner

Vs.

G. Lakshmi

... Respondent

Prayer: Civil Revision Petition is filed under Article 227 of the Civil Procedure Code against the fair and decreetal order dated 30.11.2020 passed in I.A.No.333 of 2017 in O.S.No.51 of 2009 on the file of the District Munsif Court, Tiruttani.

For Petitioner : Mr.R. Krishnasamy

O R D E R

The Civil Revision Petition has been filed under Article 227 of the Constitution of India, seeking to set aside the fair and decreetal order dated 30.11.2020 passed in I.A.No.333 of 2017 in O.S.No.51 of 2009 on the file of the District Munsif Court, Tiruttani. The said Interlocutory Application has been filed to condone the delay of 2781 days in filing the petition under Order 9 Rule 13 of CPC to set aside the ex-parte decree.

2. It is the contention of the petitioner herein that the suit is based on an unregistered agreement of sale seeking specific performance. It is also claimed that the property had already been dealt with even prior to the suit. However, the fact is that the suit summons were issued to the present petitioner herein and claiming that the name of the petitioners have been wrongly mentioned in the suit summons, the petitioner had refused to receive the notice.

3. The learned District Munsif, Tiruttani, in the course of the order, had observed that nothing prevented the petitioner from joining with the proceedings of the suit and it was actually a "lis" which has been against the present petitioner. However, the petitioner did not do so and kept quiet leading to passing of the ex-parte decree. Thereafter, there was a delay of 2781 days in filing the set aside petition. When execution petition was filed and notice was issued, the present I.A.No.333

of 2017 was filed seeking to condone the delay of 2781 days in filing the petition under Order 9 Rule 13 of the Code of Civil Procedure, to set aside the ex-parte decree. Among the various reasons given is that the name of the petitioner in the suit summons which had been forwarded to the petitioner, was wrongly given and therefore, the petitioner did not receive the same. It was also stated that the petitioner had already sold the self acquired property about two years ago for valid consideration.

4. However, it is to be noted that in the Execution Petition notice of which the petitioner had received the same, reasons can be given stating that with respect to the property has been sold. The present revision petition is directed against refusal to condone the delay of 2781 days in filing the petition to set aside the ex-parte decree. Reasons advanced cannot be found fault with,

5. Accordingly, the Civil Revision Petition is dismissed. No order as to costs. Consequently, connected Miscellaneous Petition is closed.

s/d-

Assistant Registrar (CS VIII)

True Copy

Sub-Assistant Registrar

msm

To

1. The District Munsif Court
Tiruttani.

C.R.P. (PD) No. 780 of 2021 and
C.M.P. No. 6529 of 2021

LN (CO)
SP (09/07/2021)

WEB COPY