

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 17.12.2020

PRONOUNCED ON : 16.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

CRP(NPD)No.3924 and 3925 of 2016

(Through Video Conferencing)

1. Concerto Software Solutions P Limited, represented by its Managing Director, Siddhartha Pande, Mumbai 400710
2. Siddhartha Pande, Managing Director, Concerto Software Solutions P Limited, Mumbai 400016
3. Benedict Ravindran, Director Concerto Software Solutions P Limited, Andhra Pradesh
4. Jiss Manapurathu Jose, Director Concerto Software Solutions P Limited, Mumbai-703
5. Jitesh Janardhanan Nair, Director Concerto Software Solutions P Limited, Mumbai-709

Petitioners

Vs

Financial Software and Solutions P Limited
Chennai-20

Respondent

Prayer:- These Civil Revision Petitions have been filed, to set aside the fair and decreetal order, dated 30.06.2016, made in CMP.Nos.1557 of 2014 and 207 of 2016 in AS.SR.No.44858 of 2014, respectively, by the Principal Judge, City Civil Court, Chennai.

For Petitioner : Mr.B.Karthik Seshadri

For Respondent : No Appearance

ORDER

1. These Civil Revision Petitions have been filed, to set aside the fair and decretal order, dated 30.06.2016, made in CMP.Nos.1557 of 2014 and 207 of 2016 in AS.SR.No.44858 of 2014, respectively, by the Principal Judge, City Civil Court, Chennai.
2. The facts of the case, in a nutshell, are that the Defendants/Appellants are the Petitioners and the Plaintiff is the Respondent. The Respondent has filed OS.No.1389 of 2009 against the Petitioners for permanent injunction, restraining them from using the trade secrets and the proprietary and confidential information of the Plaintiff and due to non filing of the written statement and non participation in the suit proceedings, a decree came to be passed on merits, on 04.02.2013. The Defendants have filed CMP.No.1557 of 2014 to condone the delay of 489 days in preferring the appeal. After filing of the counter in the said CMP, the Petitioners have preferred CMP.No.207 of 2016, seeking leave of the Court to permit them to file a reply to the counter. By the impugned order, both the CMPs were dismissed. Hence, these Civil Revision Petitions have been filed.
3. The learned counsel for the Petitioners has submitted that the delay of 489 days in filing the appeal neither wilful nor wanton and the delay had occurred due to their counsel and thereafter change of counsel and also due to non communication of proceedings by their counsel.
4. This court heard the learned counsel for the Petitioners and carefully perused the materials placed on record.

5. Due to non-participation in the suit proceedings and for not filing the written statement, in spite of sufficient opportunity given to the Petitioners, they were set exparte and a decree on merits came to be passed on 04.02.2013. The CMP.No.155 of 2014 had been filed to condone the delay of 489 days in preferring the said appeal as against the said decree passed on merits. After filing of the counter in CMP.No.155 of 2014, the Petitioner had filed CMP.No.207 of 2016 to file a reply to the counter. The said applications came to be dismissed by the impugned order.
6. It is seen from the records that the suit is of the year 2009 and the Petitioners did not care to file a written statement for more than four years, despite setting aside the exparte orders passed against them thrice to enable them to file the written statement before the Trial Court. Even the appeal was also not filed in time, but with an enormous delay and the reason given by the Petitioners for the delay occurred is that their counsel did not follow up the matter due to ill-health. Except making such a mere allegation against their counsel, no satisfactory reason or explanation is given by the Petitioners to condone the delay.
7. In view of the above, this Court is of the view that non-filing of the written statement for more than four years, in spite of setting aside the exparte orders passed against them thrice and also filing the appeal with an enormous delay, without giving any satisfactory explanation for the delay, would amount to delaying tactics on the part of the Petitioners and that only

A.A.NAKKIRAN, J.

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with a view to protract the proceedings, the Petitioners have indulged in such delaying tactics and that no person shall abuse the process of the court by deliberately adopting delaying tactics. The Court below, considering the above aspects, has rightly dismissed the applications, by the impugned order, which warrants no interference by this Court and consequently, these Civil Revision Petitions are liable to be dismissed.

8. In fine, these Civil Revision Petitions are dismissed. No costs.

16.03.2021

Index:Yes/No
Web:Yes/No
Speaking/Non Speaking
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To

1. The Principal Judge, City Civil Court, Chennai

Pre-Delivery Order in
CRP(NPD)No.3924 and 3925 of 2016

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