

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

C.R.P. (NPD) No.2383 of 2021
and C.M.P. No.18129 of 2021

S.Palanisamy

...

Petitioner

versus

Venkatachalam

...

Respondent

PRAYER: Civil Revision Petition has been filed under Section 115 of the Civil Procedure Code, to set aside the fair and final order passed in I.A.No.248 of 2020 in A.S.(CFR) No.2082 of 2020 on the file of the learned Principal District Judge, Tiruppur, dated 12.08.2021.

For Petitioner

:

Mr.Gopalakrishnan

ORDER

This Civil Revision Petition is filed, challenging the order dated 12.08.2021 passed by the learned Principal District Judge, Tiruppur in I.A.No.248 of 2020 in A.S.(CFR) No.2082 of 2020.

2. The learned counsel for the petitioner submitted that, the respondent filed the suit for recovery of money on the basis of promissory note. The suit was decreed *ex parte*. Now, petitioner filed I.A.No.248 of 2020 against the *ex parte* decree with a prayer to condone the delay of 2359 days in filing the appeal. The reason for this delay is, as seen from the affidavit filed in support of petition is that, he was informed by his advocate that, he may be informed when the matter is taken up for trial. He believed his advocate and then, he came to know about the *ex parte* decree. He was also informed that the case is being continued. Only after receipt of the notice in the Execution Petition, he came to know about finality of the *ex parte* decree. Therefore, there was a delay in filing the appeal. This petition was contested by the respondent. On considering the rival submissions, the learned Principal District Judge dismissed the petition. Challenging the said order, this Civil Revision Petition is preferred.

3. Considered the submissions of the learned counsel for the petitioner and perused the records.

4. It is seen from the order of the learned Principal District Judge that, the *ex parte* decree was passed on 31.07.2013. In E.P.No.71 of 2017 filed by the respondent, the petitioner appeared and making payments regularly. The petition filed for setting aside the *ex parte* decree was dismissed. There is no acceptable reasons for condoning the delay of 2359 days in filing the appeal and in such view of the matter, learned Principal District Judge dismissed the petition.

5. The only reason stated by the petitioner for condonation of delay is that, he believed his advocate and his advocate has not properly informed about the proceedings in the case and there is also other reason that he was not well. However, the petitioner has not produced any materials before the Court to show that, he was not well and therefore, he was prevented from filing the appeal in time. The reasons stated by the petitioner for condoning 2359 days, cannot be accepted and the learned Principal District Judge has rightly dismissed the petition. Therefore, this Court finds no reason to interfere with the order of the learned Principal District Judge, Tiruppur and the order dated 12.08.2021 passed in I.A.No.248 of 2020 in A.S.(CFR) No.2082 of 2020 is hereby confirmed.

6. Resultantly, this Civil Revision Petition is dismissed.

Consequently, connected Miscellaneous Petition is closed. However, there is no order as to costs.

02.11.2021

Speaking order / Non-speaking order
Index : Yes / No

sri



WEB COPY

To

The Principal District Judge, Tiruppur.



WEB COPY

G.CHANDRASEKHARAN, J.

sri



C.R.P. (NPD) No.2383 of 2021
and C.M.P. No.18129 of 2021

WEB COPY

02.11.2021