

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.07.2021

CORAM

THE HON'BLE Ms. JUSTICE R.N.MANJULA

C.R.P.(NPD).No.1720 of 2017

V.Veeraraghavalu Naidu ... Petitioner/Plaintiff

Vs.

P.Varadharaj ... Respondent/Defendant

Prayer: This Civil Revision Petition is filed under Section 115 CPC against the fair and decretal order dated 03.10.2016 in I.A.No.2206 of 2015 in O.S.No.130 of 2008 on the file of the District Munsif Judge, Madurantakam.

For Petitioner : Mr.S.Muthukumar

For Respondent : Mr.M.S.Subramanian

ORDER

(Heard through video conferencing)

This Civil Revision Petition has been filed to set aside the fair and decretal order dated 03.10.2016 passed in I.A.No.2206 of 2015 in O.S.No.130 of 2008 by the District Munsif Judge, Madurantakam.

2. The petitioner is the plaintiff in the suit.

3. The petitioner filed a petition for the relief of injunction and due to non-prosecution, the said suit was dismissed. After a delay of 1785 days, the petitioner has filed a petition under Section 5 of the Limitation Act to condone the delay in filing the petition to restore the suit. Since the Section 5 Application was dismissed, the petitioner has challenged the said order by way of filing the present Civil Revision Petition.

4. The learned counsel for the petitioner submitted that the reasons for delay as stated by the petitioner is genuine but it is not considered well by the Lower Court.

5. The learned counsel for the respondent would submit that the petitioner has filed the petition just to drag on the matter. On perusal of the records, it is seen that the petitioner has stated the reasons of his ill health as the ground to condone the delay of 1785 days. It means 5 to 6 years has lapsed after the suit was dismissed and only thereafter the petitioner has chosen to file a petition to restore the suit. If the plaintiff is very much confident about his title of the property and his possession over the property, it is always open to him to file a

suit for partition and agitate his right of share in the suit property.

6. It is submitted by the petitioner that the suit was filed just to prevent the defendant from entering into his property and putting up a hut. Due to the inordinate delay caused by the petitioner, the cause of action pleaded in the suit itself would have got barred by limitation. For such careless attitude on the part of the petitioner, no indulgence can be shown by condoning the petition and thereby, giving a way out to restore the suit after several years. Hence, I do not find any factual or legal infirmity in the Order passed by the trial Judge.

In the result, this Civil Revision Petition is dismissed and the Order passed by the District Munsif, Madurantkam in I.A.No.2206 of 2015 in O.S.No.130 of 2008 dated 03.10.2016, is confirmed. No costs.

16.07.2021

Speaking/Non-speaking
Index: Yes/No

Sni

R.N.MANJULA,J.

Sni

To

- 1.The District Munsif,
Madurantkam.
- 2.The Section Officer,
V.R.Section,
High Court, Madras.



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