



WEB COPY



CRP. No.567 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP. No.567 of 2022

and

CMP.No.3011 of 2022

Kamatchi

... Petitioner

Vs.

Selvamalar

... Respondent

PRAYER: This Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order dated 10.11.2021 made in IA.No.1 of 2020 in OS.No.318 of 2007 on the file of the District Munsif Court, Panruti.

For Petitioner : Mr.K.Balamurali
for M/s.Shivakumar and Suresh

ORDER

This Civil Revision Petition is filed challenging the order passed by the court below dismissing the petition to condone the delay of 1586 days in setting aside the ex parte order decree passed against him on 08.06.2015.



WEB COPY



CRP. No.567 of 2022

2. The respondent herein filed a suit for declaration of his possessory title and for injunction against the petitioner in O.S.No.318 of 2007 on the file of the District Munsif, Panruti. An ex parte decree was passed against the petitioner on 08.06.2015 and thereafter, the petitioner had filed an application under Order 9 Rule 13 of CPC to set aside the ex parte decree on 17.12.2021. Since there was a delay of 1586 days in filing the said petition, he filed I.A.No.1 of 2020 seeking to condone the delay and the court below had dismissed the said application. Aggrieved by the same, the revision petitioner is before this court.

3. The petitioner, in her affidavit filed in support of her petition to condone the delay of 1586 days had stated that she never received summons in the suit. She further averred that the ex parte decree was passed on 08.06.2015 as if she engaged a counsel by name A.Kumar and filed a written statement through him. The petitioner further contended that she acquired knowledge about the suit only during November 2019 when copy of the judgment and decree passed against her was tendered by respondent in an enquiry before police.



WEB COPY



CRP. No.567 of 2022

4. The petitioner was examined as witness as PW1 and her husband was examined as PW2 before the court below. In support of her contention, in the affidavit. During course of examination PW1 and PW2, she admitted that the abovesaid Advocate namely A.Kumar was engaged by her in the proceedings before the Revenue Officials namely RDO and DRO. It was also admitted by her that he represented her in the earlier case in the year 2005. She further admitted that in the evidence till date she had not questioned the above said advocate about his appearance in the present case. It was further submitted that there is no enmity between the petitioner and the said Advocate A.Kumar who admittedly represented her in another suit. Based on the admission culled out from the examination of the petitioner as PW1 and her husband as PW2, the court below came to the conclusion that there was no personal intention or motive for the said Advocate to appear for the petitioner without her instruction. The view taken by the court below appear to be prudent in the normal course of facts and circumstances of the case. In view of the specific admission by the petitioner that there was no enmity between her and the above said Advocate, A.Kumar, absolutely there is no chance for him to appear for her in the present suit without her instruction.



CRP. No.567 of 2022

WEB COPY

Further, the petitioner could have disproved the signatures found in the suit summons, vakalat given to the Advocate and written statement filed on her side by seeking comparison of the contemporaneous admitted signatures along with the document available before the court. The petitioner has not taken any steps for comparison of signatures found in the vakalat and written statement with her admitted signatures. Under such circumstances, I do not find any illegality or irregularity in the order passed by the court below.

5. In the result, this Civil Revision Petition is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

17.11.2022

Index : Yes/No

Internet : Yes/No

gv



WEB COPY



CRP. No.567 of 2022

To
The District Munsif Court,
Panruti.



WEB COPY



CRP. No.567 of 2022

S.SOUNTHAR.,J.
Gv

CRP. No.567 of 2022
and
CMP.No.3011 of 2022

17.11.2022