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C.R.P.(NPD) No.3090 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.06.2022

C O R A M

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P.(PD) No.3090 of 2017
and C.M.P.No.14476 of 2017

Natarajan

... Petitioner

Vs.

Ezhumalai

... Respondent

PRAYER: Civil Revision Petition filed under Article 115 of Civil Procedure Code praying against the fair and final order dated 21.12.2015 passed in I.A.No.830 of 2015 in O.S.No.246 of 2006 on the file of the Principal District Munsif Court, Ulundurpet.

For Petitioner	: Mr.N.Damodaran
For Respondent	: Mr.M.Muruganantham

ORDER

This Civil Revision Petition has been filed to set aside the order dated 21.12.2015 in I.A.No.830 of 2015 in O.S.No.246 of 2006 passed by the learned Principal District Munsif Judge, Ulundurpet.

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2. I.A.No.830 of 2015 in O.S.No.246 of 2006 has been filed to condone the delay of 3021 days in filing the set aside the *ex parte* decree in O.S.No.246 of 2006.

3. The Trial Court finding that the Petitioner/Defendant had not satisfied the Court by showing sufficient reason for condoning the delay, had dismissed I.A.No.830 of 2015. Against which, the present Civil Revision Petition has been filed.

4. Learned counsel for the petitioner submitted that the Court below on the facts and circumstances of the case ought to have allowed the condone delay application so as to enable the petitioner to contest the suit on merits in accordance with law. He further submitted that no proper notice was served upon the petitioner at every stage of the proceedings so as to enable him to contest the suit as well as the applications filed by the respondents herein pursuant to the *ex parte* decree in O.S.No.246 of 2006. The Court below ought to have adverted to the fact that merely substituted service was ordered and paper publication was effected pursuant to the



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order passed therein, may not amount to proper service unless the petitioner had knowledge about the initiation of the proceedings by the respondent/plaintiff.

5. Learned counsel for the respondent denied all the averments made by the petitioner and submitted that notice has been served to the petitioner and paper publication has also been effected. Therefore, the order passed by the Court below is just and reasonable.

6. Heard the learned counsel for the petitioner and the learned counsel for the respondent and perused all the materials available on record.

7. The learned Judge has rightly found that a duty is cast on the party seeking to condone the delay to establish sufficient cause whereas, in this case, the Petitioner/Defendant has not shown sufficient cause and thereby dismissed the petition.



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8. It is seen that at every point of time, the Petitioner/Defendant had been delaying or protracting the process of trial. The conduct of the petitioner does not seem to be bonafide. The delay is an inordinate delay and no proper explanation had been given by the petitioner for condonation of such inordinate delay and thereby, the trial Court by an elaborate order has rightly held that the petitioner had not shown sufficient cause, and dismissed the petition seeking to condone the delay of 3021 days. This Court is of the considered opinion that there is no infirmity in the order passed by the trial Court warranting interference of this Court.

9. Accordingly, this Civil Revision Petition stands dismissed. Consequently, the connected miscellaneous petition is closed. No cost.

23.06.2022

msv
To
The Principal District Munsif Judge,
Principal District Munsif Court, Ulundurpet



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