



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.04.2022

CORAM

THE HONOURABLE MRS.JUSTICE S. ANANTHI

C.R.P (PD) (MD) .No. 900 of 2022
and CMP(MD)No.3588 of 2022

S.Sekar

... Petitioner/Petitioner/Defendant
Vs

M.Subramaniyan

... Respondent/Respondent/Plaintiff

PRAYER: Civil Revision Petition filed under Article 115 of Civil Procedure Code to set aside the Fair and Decreetal order dated 27.09.2021 passed in I.A. No. 1 of 2021 in O.S. No. 12 of 2012 on the file of the Principal District Court, Sivagangai by allowing this Civil Revision Petition.

For Petitioner : Mr.S.Mahesh Babu

ORDER

To set aside the fair and decreetal order, dated 27.09.2021 passed in I.A. No. 1 of 2021 in O.S. No. 12 of 2012, passed by the learned Principal District Judge, Sivagangai, the revision petitioner has filed this Civil Revision Petition before this Court.

2.Heard the learned counsel appearing for petitioner and perused the materials available on record.

3.Originally, the suit for Mortgage in O.S.No.12 of 2012 was filed by the respondent/plaintiff against the revision petitioner/defendant. In the said suit, on 31.10.2012, preliminary decree was passed. The petition in I.A.No. 1 of 2021 was filed by the petitioner to condone the delay of 3156 days in filing the petition to set aside the *exparte* decree. The reason for his non-appearance as stated by the petitioner is that he had suffered by some ailments and in support of his contention, he has filed medical records pertaining for the period from 2010 to 2016. Thereafter, from the year 2016 to till the date of filing the I.A.petition, the petitioner has not filed any documents for the delay.

4.After lapse of nine years from passing the preliminary decree, the petition in I.A.No.1 of 2021 was filed only in the year 2021. Before filing this *exparte* set aside petition, final decree application was filed in the year 2020.



5.The learned counsel appearing for the petitioner has also contested that the final decree application, by way of filing counter and thereafter, final decree was also passed.

6.Only after passing final decree, this petitioner has filed the petition in I.A.No.1 of 2021, to condone the delay of 3156 days in filing the petition to set aside exparte decree, passed in preliminary decree in the suit in O.S.No.12 of 2012. There is no merits in the petition filed by this petitioner, since he had already contested the final decree application and orders have also been passed.

7.In view of the above, the trial Court has rightly dismissed the petition and this Court is of the opinion that no interferences is necessary in the order passed by the Court below.

8.Accordingly, this Civil Revision Petition is dismissed, thereby, confirming the order passed by the learned Principal District Judge, Sivagangai in I.A. No. 1 of 2021 in O.S. No. 12 of 2012, dated 27.09.2021. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

PNM

To

1.The Principal District Judge, Sivagangai.

2.The Record Keeper,
Vernacular Section, Madurai Bench of Madras High Court,
Madurai.(2 copies)

+1 CC to M/s.S. MAHESH BABU, Advocate (SR-19970[F] dated 21/04/2022)

ORDER IN
C.R.P (PD) (MD) .No. 900 of 2022
and CMP (MD) No.3588 of 2022
20.04.2022

_SS/25.05.2022 : 2P/5C