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C.R.P.No.3465 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.01.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.R.P.No.3465 of 2022

and

C.M.P.No.18477 of 2022

Ramakrishnan

... Petitioner

Vs.

Pachaiammal

... Respondent

Prayer: Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure to set aside the fair and decreetal order of the Principal Subordinate Judge, Kallakurichi, dated 24.02.2022 in I.A.No.147 of 2021 in O.S.No.31 of 2018.

For Petitioner : Mr.T.Deepas
for M/s.P.V. Law Associates

For Respondent : Mr.M.Karthikeyan

ORDER

This Civil Revision Petition is filed against the fair and decreetal order dated 24.02.2022 passed in I.A.No.147 of 2021 in O.S.No.31 of 2018.



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2. The revision petitioner is the defendant in the Suit and the respondent instituted the Suit for specific performance. The revision petitioner/defendant remained absent and not defended the Suit filed by the respondent and the Court after affording opportunity, passed an *exparte* decree on 13.04.2018. Even after passing an *exparte* decree, the revision petitioner/defendant had not taken any action for setting aside the *exparte* decree. Meanwhile, the respondent/plaintiff filed an Execution Petition, which was also allowed by the Execution Court. Thereafter, the revision petitioner filed I.A.No.147 of 2021 to condone the delay of 898 days in filing the petition to set aside the *exparte* decree dated 13.04.2018. The Trial Court found that the revision petitioner had not assigned any acceptable reason for the purpose of condoning the enormous delay. He remained absent and not contested the Suit and filed an Interlocutory Application in order to drag on the proceedings and thus, the Court found that the Interlocutory Application was not filed in good intention and unexplained delay cannot be condoned and consequently, dismissed the Interlocutory Application. Thus, the petitioner is before this Court.

3. Uncondonable delay cannot be condoned by the Courts in a



WEB COPY

routine manner. Meagre delay can be condoned by taking a lenient view. Law of limitation is substantive. Thus, the litigants are expected to file application within the time limit prescribed under the Statute. Condonation of delay is an exception. Courts are expected to exercise the power of discretion in a judicious manner and an unexplained long delay cannot be condoned and in the event of condoning such an enormous delay, greater prejudice would be caused to the other parties to the litigation. Thus, such a long delay can be condoned only if the reasons are substantiated with the documents and evidences. In the present case, the reasons stated by the petitioner is that the learned counsel appearing on behalf of the revision petitioner has not informed about the stage of the Suit and even that has not been established properly before this Court. Thus, the Trial Court formed an opinion that the Interlocutory Application was filed to drag on the proceedings after allowing the execution proceedings.

4. This being the factum, this Court do not find any infirmity in respect of the order passed in I.A.No.147 of 2021. Accordingly, the order dated 24.02.2022 in I.A.No.147 of 2021 in O.S.No.31 of 2018 stands confirmed. Hence, the Civil Revision Petition in C.R.P.No.3465 of 2022



stands dismissed. Consequently, the connected Civil Miscellaneous Petition is also dismissed. However, there shall be no order as to costs.

WEB COPY

20.01.2023

rpl/mps

Index : Yes

Speaking order

To

The Principal Subordinate Judge, Kallakurichi.



WEB COPY

C.R.P.No.3465 of 2





WEB COPY



C.R.P.No.3465 of 2

S.M.SUBRAMANIAM, J.

rpl/mps

C.R.P.No.3465 of 2022
and
C.M.P.No.18477 of 2022

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