



WEB COPY



C.R.P.No.1948 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.03.2023

CORAM

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

C.R.P.No.1948 of 2021
and C.M.P.No.15100 of 2021

Y.Nagaraj

... Petitioner

-VS-

N.Anand Reddy

... Respondent

PRAYER: Civil Revision Petitions filed under Section 115 of Civil Procedure Code, that the fair and decretal order dated 19.03.2001 passed in I.A.No.1 of 2019 in Unnumbered A.S of 2019 on the file of the learned Principal District Judge, Krishnagiri against the Judgment and Decree dated 07.12.2012 passed in O.S.No.74 of 2012 on the file of the learned Subordinate Judge, Hosur is illegal, incompetent and liable to be set aside.

For Petitioner : Mr.S.C.Vishwanth

For Respondent : Mr.G.M.Anantha Kumar



C.R.P.No.1948 of 2021

ORDER

WEB COPY

This Civil Revision Petition is filed to set aside the fair and decreetal order dated 19.03.2001 passed in I.A.No.1 of 2019 in Unnumbered A.S of 2019 on the file of the learned Principal District Judge, Krishnagiri against the Judgment and Decree dated 07.12.2012 passed in O.S.No.74 of 2012 on the file of the Subordinate Judge, Hosur as illegal, incompetent and liable to be set aside.

2. The learned counsel for the Revision Petitioner submits that the Revision Petitioner is the Defendant in the Suit in O.S.No.74 of 2012. On 07.12.2012 the *ex parte* Decree was passed against the Petitioner herein. Therefore, he had filed petition in I.A.No.268 of 2013 to set aside the *ex parte* Decree. That petition was dismissed on the ground that the learned counsel for the Petitioner in the Interlocutory Application did not issue notice to the Respondent to restore the Interlocutory Application, another Petition was filed in I.A.No.236 of 2014 to condone the delay in restoring the I.A.No.268 of 2013. That was also dismissed. To restore that petition another petition was filed in I.A.No.268 of 2013. That was also dismissed.



C.R.P.No.1948 of 2021

WEB COPY

3. Aggrieved by the same, he had filed the C.R.P.(NPD) No.358 of 2015. That was also dismissed by this Court as per order dated 15.12.2017 against which he had filed Special Leave Petition in S.L.P.No.3187 of 2019 before the Hon'ble Supreme Court. That was also dismissed. Therefore, he had filed the petition to condone the delay of 2330 days in filing the Appeal against the *ex parte* Decree passed in O.S.No.74 of 2012. I.A.No.1 of 2019 in Unnumbered Appeal Suit of 2019 against O.S.No.74 of 2012 was dismissed by the Learned Principal District Judge, Krishnagiri by order dated 19.03.2001.

4. Aggrieved by the same, the Defendant in O.S.No.74 of 2012 who is the proposed Appellant and the Petitioner in I.A.No.1 of 2019 approached this Court under Article 227 of the Constitution of India to set aside the order of dismissal of the petition to condone the delay in filing the Appeal.

5. The learned Counsel for the Respondent vehemently objected to the submission of the learned Counsel for the Petitioner stating that this is



C.R.P.No.1948 of 2021

the second round of litigation. The Respondent had filed a suit in O.S.No.74 of 2012 for specific performance, in which the Petitioner herein as Defendant remained *ex parte*. Therefore, *ex parte* decree was passed. Subsequently, he filed petition to condone delay of 139 days. The same was dismissed. To restore the petition, another petition was filed in I.A.No.236 of 2014 with a delay of 229 days. That petition was also dismissed. Against which he filed C.R.P.No.358 of 2015. That was also dismissed. Against which, the Defendant approached the Hon'ble Supreme Court by filing Special Leave Petition. The same was also dismissed on 22.02.2019. Now, he had preferred Appeal with a delay of 2330 days. The same was also dismissed. Against which, this Civil Revision Petition had been filed. Therefore, it is the contention of the learned Counsel for the Respondent that this is the second round of litigation.

6. On considering the rival submission, the submission of the learned Counsel for the Revision Petitioner cannot be accepted in the light of the specific finding by the learned Judge of this Court in dismissing the Civil Revision Petition in C.R.P.No.358 of 2015. As rightly stated by the learned



C.R.P.No.1948 of 2021

Counsel for the Respondent also in the light of the finding of the learned Principal District Judge, Krishnagiri, it is an exercise to harass the Decree Holder in the Suit. This being a second round of litigation instituted by the Defendant, it has to be dismissed as having no merit.

7. In the light of the above, C.R.P.No.1948 of 2021 is dismissed. Consequently, C.M.P.No.15100 of 2021 is closed.

24.03.2023

rna

Index : Yes / No

Internet : Yes / No

To

- 1.The Principal District Judge, Krishnagiri.
- 2.The Subordinate Judge, Hosur.



WEB COPY



C.R.P.No.1948 of 2021

SATHI KUMAR SUKUMARA KURUP., J.

rna

C.R.P.No.1948 of 2021

and C.M.P.No.15100 of 2021

24.03.2023