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C.R.P.No.4149 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.01.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.R.P.No.4149 of 2022

and

C.M.P.No.21657 of 2022

T.Masilamani

... Petitioner

Vs.

1. K.Venkat Narayanan

2. K.Mahesh

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the Fair and Decretal order dated 02.11.2022 of the learned Additional District Munsif Court, Kancheepuram passed in I.A.No.1 of 2022 in O.S.No.2 of 2013 and allow the Civil Revision Petition.

For Petitioner

: Mr.Duraikkan S.Phillip

ORDER

The Fair and Decretal order dated 02.11.2022 passed in I.A.No.1 of 2022 in O.S.No.2 of 2013 is under challenge in the present Civil Revision Petition.

2. The revision petitioner is the defendant and the respondents have



instituted a Suit for Declaration and Recovery of Possession. The Suit was instituted in the year 2013 and notice was served to the defendant. However, the defendant had chosen not to contest the Suit and remained absent. Thus, the Suit was decreed *ex-parte* on 02.08.2017 and the respondents/ decree holder instituted Execution Proceedings and thereafter, the revision petitioner/ defendant filed an Interlocutory Application in I.A.No.1 of 2022 in O.S.No.2 of 2013, to condone the delay of 611 days in filing the Interlocutory Application, to set aside the *ex-parte* decree passed on 02.08.2017. The delay of 611 days was sought to be condoned in Interlocutory Application.

3. The Trial Court found that even the delay was wrongly calculated, excluding the COVID-19 Pandemic period and therefore, the petition itself is unsustainable.

4. The Interlocutory Application to condone the delay of 611 days was filed in the year 2022 in I.A.No.1 of 2022 and the *ex-parte* decree was passed on 02.08.2017.

5. That being the factum, the delay petition was filed after a lapse of



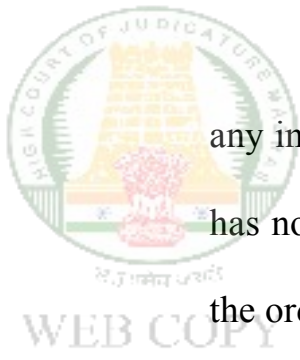
five (5) years from the date of *ex-parte* decree and the delay sought to be condoned is wrongly calculated.

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6. That apart, the reason stated for condoning such a long delay is that the revision petitioner was suffering from Jaundice and was taking certain native treatment. Such a blanket reason is unacceptable. Even in case of medical treatment, the person, who seeks to condone such a long delay, must establish the nature of treatment and the details regarding the medical treatments undergone.

7. Thus, the Trial Court found that the reason stated for condoning such a long delay is neither candid nor convincing and accordingly, dismissed the Interlocutory Application filed in I.A.No.1 of 2022 in O.S.No.2 of 2013 on 02.11.2022. The Trial Court, in its order, made a finding that the revision petitioner/ defendant had knowledge about the case initiated against him and further, he has not explained the delay with any acceptable reason.

8. This being the findings of the Trial Court, this Court do not find



any infirmity or perversity and even before this Court, the revision petitioner has not established any acceptable reason for the purpose of interfering with the order impugned in the present Civil Revision Petition.

9. Accordingly, the Civil Revision Petition stands dismissed.

No costs. Consequently, the connected miscellaneous petition is closed.

09.01.2023

skr/kak

Index : Yes

Speaking order

Neutral Citation : Yes

To

The Judge,
Additional District Munsif Court,
Kancheepuram.



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S.M.SUBRAMANIAM, J.

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