



C.R.P(MD)No.1638 of 2019

WEB CO BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

C.R.P(MD) No.1638 of 2019

and

C.M.P(MD) No.8563 of 2019

Boominathan

...Petitioner

Vs.

Shanthi

...Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order passed in I.A.No.14 of 2014 in O.S.No.72 of 2008 on the file of the Principal District Judge, Thoothukudi, dated 13.12.2018.



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For Petitioner : Mr.R.Balakrishnan

For Respondent : Mr.D.Senthil

ORDER

Heard, Mr.R.Balakrishnan, learned counsel for the petitioner and Mr.D.Senthil, learned counsel appearing for the respondent and perused the material available on record.

2. The petitioner is the defendant in the suit in O.S.No.72 of 2008 filed for specific performance. The said suit was posted to 22.04.2009 for filing the counter of the defendant as last chance and *ex-parte* order was passed against the defendant on 22.04.2009. Thereafter, *ex-parte* decree was passed on 26.06.2009. The plaintiff in the suit filed Execution Petition in E.P.No.38 of 2013. The petitioner appeared on 15.03.2013 in Execution proceedings. Thereafter, he was made *ex-parte* in the Execution Proceedings also by order dated 08.04.2013. On 14.09.2013, the



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petitioner filed a petition to set aside the *ex-parte* order passed by the Execution Court on 08.04.2013. Thereafter, on 04.10.2013, the petitioner filed a petition to set aside the *ex-parte* decree in the main suit passed on 26.06.2009 along with I.A.No.14 of 2014 seeking to condone the delay of 1529 days in filing the petition to set aside the *ex-parte* decree. On hearing both sides, the learned Trial Court dismissed the I.A.No.14 of 2014 by order dated 13.12.2018 with the costs of Rs.2,000/-. Aggrieved by the same, the present Civil Revision Petition is filed.

3. Having heard the submissions of the respective counsels and upon careful perusal of the material available on record, admittedly, I.A.No.14 of 2014 is filed to condone the delay of 1529 days in filing the petition to set aside the *ex-parte* decree passed on 26.06.2009 by the Trial Court. Even in the Trial Court and in this Civil Revision Petition also except contending that his counsel did not informed him about the case proceedings, no legally valid reasons are stated.



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4. In the considered opinion of this Court, the petitioner failed to show any sufficient cause to condone the delay of 1529 days in filing the petition to set aside the *ex-parte* decree passed on 26.06.2009. In the absence of any sufficient cause shown by the petitioner to condone the inordinate delay, in the considered opinion of this Court, the petitioner is not entitled for the relief sought.

5. As such, the court below rightly dismissed the I.A.No.14 of 2014 and interference of this Court is not required.

6. Accordingly, this Civil Revision Petition is dismissed.

7. No costs.

8. Consequently, connected Civil Miscellaneous Petition is closed.

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NCC : Yes / No
Index : Yes / No
Internet : Yes / No
RM



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To

The Principal District Judge,
Principal District Court,
Thoothukudi.



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BATTU DEVANAND, J.

RM

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