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C.R.P.(PD).No.1623 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(PD).No.1623 of 2019
and C.M.P.No.10649 of 2019

S.Parameswaran

... Petitioner

VS

1.S.Sarojini

2.S.Rajamani

3.Nanjammal

4.Ramasamy

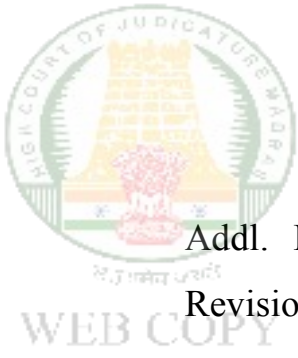
S.Jaganathan (Died)

5.Ramachandran

6.Lakshmi

... Respondents

Prayer: Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, praying to set aside the Fair and Final Order dated 11.01.2019 in I.A.No.701 of 2018 in O.S.No.629 of 2010 on the file of the III



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Addl. District and Sessions Judge, Coimbatore by allowing this Civil Revision Petition.

For Petitioner : Mr.M.Guruprasad

For R1 and R2 : Mr.R.Venkataraman
for M/s.K.S.Karthik Raja

For R3 to R6 : No Appearance

ORDER

The Civil Revision Petition is filed challenging the order passed by the Trial Court dismissing the application filed by the petitioner seeking to condone the delay of 2328 days in filing the petition to set aside the *exparte* decree.

2. The respondents 1 and 2 filed a suit in O.S.No.629 of 2010 seeking declaration that Settlement Deeds dated 23.04.2010 and 02.06.2010 registered vide Document Nos.2199, 2200 and 2803 of 2010 on the file of the Sub-Registrar, Ganapathy, Coimbatore District are null and void and also for partition of plaintiffs' 2/8 shares in the suit property and for other reliefs.



3. The said suit was decreed *exparte* on 10.02.2012. Thereafter, the instant application in I.A.No.701 of 2018 has been filed by the petitioner on 06.07.2018 seeking to set aside the *exparte* decree with a delay of 2328 days. In the affidavit filed in support of the condone delay petition, it was stated by the petitioner that he was residing at Chennai and hence, he had no knowledge about the date of hearing. It was further stated that as he failed to attend the Court on the date fixed for filing of written statement, an *exparte* decree was passed against him.

4. The Trial Court came to the conclusion that reason assigned by the petitioner is not sufficient to condone the huge delay of 2328 days in filing the petition to set aside the *exparte* decree.

5. Merely because, the petitioner is residing in a different city, he cannot claim that he had no knowledge about the decree. The petitioner received the suit summons and engaged counsel to contest the case. It is his duty to contact his counsel and enquire about the progress of the case. From the reason assigned in the affidavit filed in support of the condone delay



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petition, it is seen that the petitioner failed to follow his case for nearly 6 ½ years. In such circumstances, the conclusion reached by the Court below that petitioner failed to show sufficient cause for condoning the huge delay of 2328 days, is correct and the same is not vitiated by any perversity.

6. Accordingly, the Civil Revision Petition stands dismissed. No costs.

Consequently, the connected civil miscellaneous petition is closed.

27.02.2024

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
dm



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To

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The III Addl. District and Sessions Judge,
Coimbatore.



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S.SOUNTHAR, J.

dm

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