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C.R.P. No. 2811 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

C.R.P. No. 2811 of 2019

M. Robert

... Petitioner

Vs.

1.G. Kuppan

2.R.N. Jayaprakash

... Respondents

Civil Revision Petition is filed under Section 115 of Civil Procedure Code, to set aside the fair and decreetal order dated 26.03.2019 made in I.A.No.117 of 2018 in O.S.No.323 of 2007 on the file of District Munsif, Kanchipuram.

For Petitioner : Mr. J. Aadhil
for Mr. I. Abrar Mohamed Abdullah

For Respondents : Mr. L. Murali Krishnan, for R2

ORDER

The Civil Revision Petition has been filed against the order dated 26.03.2019 in I.A.No.117 of 2018 in O.S.No.323 of 2007 on the file of Principal District Munsif, Kanchipuram.



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2. The petitioner is the plaintiff and respondents are the defendants in the suit in O.S.No.323 of 2007. The said suit was filed by the plaintiff for the relief of declaration, permanent injunction and for partition of 1/3rd share in the suit properties. In the said suit, the defendants filed written statement and contested the case. After framing of issues, the suit was posted for trial in the special list on 06.09.2010. On that day, the plaintiff failed to appear and the suit was dismissed for default. To restore the suit, the petitioner has filed an application under Order IX Rule 9 of CPC on 20.11.2017, along with the said application, he filed an application under Section 5 of Limitation Act to condone the delay of 2600 days to file the restoration application.

3. Having considered the contentions of the learned counsel appearing on either side, the Principal District Munsif, Kanchipuram has dismissed the application filed for condonation of delay. Aggrieved by the same, the present Civil Revision Petition has been filed.

4. Learned counsel for the petitioner submits that the father of the



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petitioner was seriously ill and bedridden and the petitioner was looking after him. Therefore, the petitioner could not contact his counsel. The petitioner's father died on 31.08.2011 and due to which, the petitioner had mental depression, which took few years for recovery. Learned counsel further contends that if the suit is not restored, the petitioner will be put to irreparable loss and injury and prayed for one opportunity to prosecute the suit.

5. On the order hand, the learned counsel appearing for the second respondent submits that the delay of 2600 days is very huge and the reason stated by the petitioner cannot be accepted. The restoration petition filed after more than seven years, besides that as per the learned counsel for the second respondent, the plaintiff has no right over the suit schedule property, as the second respondent is in possession of the same as absolute owner. Accordingly, the learned counsel sought to dismiss the Civil Revision Petition.

6. Having heard the submissions of the respective counsel and on



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careful perusal of the material available on record, it is an admitted fact that the suit in O.S. No. 323 of 2007 was dismissed for default on 06.09.2010.

The petitioner filed restoration petition on 20.11.2017 with a delay of 2600 days. The reasons stated by the petitioner seeking to condone the delay are not acceptable due to the reason that the petitioner failed to show any sufficient cause to condone the abnormal delay of 2600 days.

7. The Hon'ble Apex Court and this Court, time and again declared that to condone the delay, sufficient cause has to be shown by the parties. The Principal District Munsif, Kanchipuram considered all aspects and passed reasoned order.

8. As such, in the considered opinion of this Court, there is no illegality or infirmity in the order passed by the Court below and interference of this Court is not warranted into the order dated 26.03.2019 in I.A.No.117 of 2018 in O.S.No.323 of 2007 on the file of Principal District Munsif, Kancheepuram.



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9. Accordingly, the Civil Revision Petition is dismissed.

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10. There shall be no order as to costs.

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Index : Yes / No

Neutral Citation : Yes / No

AT

To

The District Munsif, Kanchipuram.



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BATTU DEVANAND, J.

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