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C.R.P.(NPD).No.3088 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.04.2024

Coram

THE HON'BLE MR JUSTICE V. LAKSHMINARAYANAN

C.R.P.(NPD).No.3088 of 2022 &
CMP.No.16595 of 2022

K.Radhamani

... Petitioner

-Versus-

K.Ganeshamurthy

... Respondent

Civil Revision Petition under Section 115 of the Code of Civil Procedure to set aside the fair and decretal order dated 17.03.2022 passed in I.A.No.33 of 2020 in O.S.No.55 of 1997 on the file of the District Munsif Court, Avinashi.

For Petitioner : *Mr.C.Vigneshwaran for*
Mr.K.Govi Ganesan

For Respondent : *Mrs.S.Valarmathi for*
Mr.J.Franklin

ORDER

This civil revision petition challenges order passed in I.A.No.33 of 2020 in O.S.No.55 of 1997 on the file of the District Munsif Court, Avinashi.



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2. I.A.No.33 of 2020 is an application filed to condone the delay of 5950 days in filing a petition to set aside the exparte decree passed in O.S.No.55 of 1997.

3. The reason given by the petitioner is that she had engaged a lawyer by the name Basuvaiah who had reported no instructions at the time of decreeing the suit and this resulted in an exparte decree. She would state that only when she engaged a new counsel, she came to know about the exparte decree.

4. A perusal of the order shows that pursuant to the decree obtained on 10.09.2001, an execution petition was filed in E.P.No.6 of 2002, and the sale deed had also been executed on 28.04.2004. Thereafter, seeking delivery of possession, E.P.No.160/2004 was presented in which the petitioner had participated and filed a counter in the year 2004 itself. Therefore, the petitioner was aware of the proceedings even in 2004, but did not take any steps to set aside the exparte decree.

5. The respondent has marked Ex.R1 to Ex.R3 in order to show that the



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counter statement was filed by the petitioner on 05.11.2004.

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6. Sufficient cause is *sine qua non* for the purpose of condonation of delay. When the petitioner was aware of the proceedings in 2004, but filed an application in the year 2020 to set aside the exparte decree, it shows nothing but the lackadaisical attitude in conducting the litigation. There is no cause let alone sufficient cause for the purpose of condonation of delay.

7. This civil revision petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

24.04.2024

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Index : yes / no

Neutral Citation : yes / no

Speaking / Non Speaking Order

To

The District Munsif Court, Avinashi.



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V.LAKSHMINARAYANAN, J.

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