



C.R.P(MD)No.2235 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **18.04.2024**

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(MD)No.2235 of 2019

Sathya Development Pvt. Ltd.,
No.371, Palayamkottai Road,
Thoothukudi Town,
Through its Director,
G.Arulraj.

... Petitioner /Petitioner/
5th Defendant

Vs.

1.J.Pattarasi

2.S.Gomathi

...Respondents/Respondents/
Plaintiffs

3.Ramakrishnan

4.Maragadhavalli

5.Jesuraj

6.R.Soundirarajan

... Respondents/Respondents 3-6/
Defendants 1-4

PRAYER: Civil Revision Petition is filed under Section 115 of Code of Civil Procedure, to set aside the fair and decreetal order, dated 08.01.2019 passed in I.A.No.998 of 2018 in O.S.No.593 of 2012 on the file of Principal District Munsif Court, Tuticorin.



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For Petitioner : Mr.M.P.Senthil

For Respondents : No Appearance

ORDER

The 5th defendant in O.S.No.593 of 2012 on the file of the Principal District Munsif Court, Tuticorin is the revision petitioner herein. The respondents 1 and 2 herein had filed the above said suit for the relief of partition and separate possession. The 5th defendant was set *ex parte*. Except defendants 2 and 3, all other defendants have remained *ex parte* and a decree came to be passed on 02.04.2016. The 5th defendant had filed I.A.No.998 of 2018 for condoning the delay of 862 days in filing an application under Order 9 Rule 13 of Code of Civil Procedure to set aside the *ex parte* preliminary decree. The said application was stoutly resisted by the plaintiff and the trial Court had dismissed the application. Challenging the same, the present revision petition has been filed.

2. A perusal of the affidavit and the counter affidavit clearly shows that the 5th defendant was continuously in touch with his counsel and he was regularly following up the suit proceedings. However, he has not



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chosen to appear before the Court and contest the suit. Though he has filed a written statement, thereafter, he has not defended the suit. Though the suit was pending for more than 7 years before the trial Court, the revision petitioner has not chosen to appear before the Court. Therefore, the trial Court has rightly dismissed the condone delay application. There are no merits in the revision petition.

3. Hence, this Civil Revision Petition stands dismissed. No costs.

18.04.2024

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

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To

1. The Principal District Munsif Court,
Tuticorin.
2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR ,J.

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Order made in
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