



C.R.P.(MD).No.1414 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P.(MD)No.1414 of 2019

Abdul Wahab

... Petitioner/Petitioner/
2nd Defendant

-VS-

Abdul Basheer Rawther

... Respondent/Respondent/
Plaintiff

PRAYER: Civil Revision Petition is filed under Section 115 of Civil Procedure Code, against the order dated 08.10.2018 passed by the learned II Additional District Munsif, Tiruchirappalli made in I.A.No.139 of 2016 in O.S.No.864 of 1999.

For Petitioner : Mrs.K.R.Shivashankari

For Respondent : Mr.P.Thiyagarajan

ORDER

The present Civil Revision Petition has been filed by the second defendant in O.S.No.864 of 1999 on the file of the II Additional District Munsif Court, Tiruchirappalli, as the revision petitioner.



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2. The suit has been filed for permanent injunction restraining the defendants from interfering with the peaceful possession of the suit schedule property. All the defendants had remained *ex parte* and an *ex parte* decree came to be passed on 21.04.2009, Out of 9 defendants, the second defendant alone had filed I.A.No.139 of 2016 for condoning the delay of 2482 days in filing the application to set aside the *ex parte* decree.

3. The main contention of the learned counsel appearing for the revision petitioner is that the parties to the suit have entered into a compromise before the Jamadhar on 18.06.1999. The said compromise was also reduced into writing. The parties to the suit have also prepared a Compromise Memo to be filed before the Court. However, the plaintiff did not abide by the said compromise. Therefore, they have filed a written statement on 23.04.2001 alleging that the plaintiff had cheated the defendants. Now, I.A.139 of 2016 is filed contending that in view of the compromise, the second defendant was under the impression that the suit has been compromised and he had not followed up the suit. The trial Court had found that the reason assigned for a huge delay of 2482 days is not reasonable and acceptable and has proceeded to dismiss the said application. Challenging



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the same, the present Civil Revision Petition has been filed.

4. The learned counsel appearing for the revision petitioner has reiterated the contentions raised before the trial Court and the grounds raised in the present Civil Revision Petition. The sheet anchor of the arguments of the learned counsel appearing for the revision petitioner is that in view of compromise, dated 18.06.1999, entered into between the parties before the Jamadh, the second defendant had not followed up the case before his counsel.

5. It could be seen from the records, two years after the said alleged compromise, a written statement has been filed by the second defendant on 23.04.2001 specifically alleging that the plaintiff has not abided by the compromise and he had cheated him. Therefore, at this length of time, the second defendant cannot again agitate the issue under the pretext of compromise and contend that in view of the compromise he had not followed up the case with their counsel.

6. The trial Court after considering the facts and circumstances of the case and the length of delay has rightly dismissed the said application and



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there is no merit in the Revision Petition.

7. Accordingly, this Civil Revision Petition is dismissed. There shall be no order as to costs.

04.04.2024

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

To
1. The II Additional District Munsif,
Tiruchirappalli.



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R.VIJAYAKUMAR,J.

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