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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 12.2.2025.

CORAM

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

C.M.P.No.9498 of 2019

in

C.R.P.(SR) No.42509 of 2019

and

C.R.P.(SR) No.42509 of 2019

Kairunnissa

Petitioner

vs.

1. Mrs.Jaya Xaiver

2. The Commissioner,
Corporation of Chennai,
Ripon Building,
Chennai 600 003.

Respondents

Civil Miscellaneous Petition filed under Section 5 of Limitation Act to condone the delay of 1666 days in filing the above civil revision petition against I.A.No.11015 of 2013 in O.S.No.774 of 2009 on the file of the VI Assistant Judge, City Civil Court, Chennai.

AND

Civil Revision Petition filed under Article 115 CPC against the order dated 10.4.2014 passed in I.A.No.11015 of 2013 in O.S.No.774 of 2009 on the file of the VI Assistant Judge, City Civil Court, Chennai.

For Petitioner : No appearance.

For R1 : Mr.R.Thiagarajan
Ms.Vasudha Thiagarajan

For R2 : No appearance.



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ORDER

Challenging the order dated 10.4.2014 passed by the VI Assistant Judge, Civil Civil Court, Chennai in I.A.No.11015 of 2013 in O.S.No.774 of 2009, dismissing the Application seeking to condone the delay of 72 days in filing petition to set aside the ex parte decree, the present civil revision petition, alongwith a petition to condone the delay of 1666 days in filing the civil revision petition, has been filed by the first defendant.

2. Brief facts of the case:-

i) The first respondent herein had filed the suit in O.S.No.774 of 2009 on the file of the VI Assistant Judge, City Civil Court, Chennai for the relief of permanent injunction and for recovery of vacant possession to the extent of 11/2 x 25 sq.ft., from the Western side of the schedule mentioned property from north south after removing the columns put up by the defendants and for other reliefs.

ii) The petitioner herein/first defendant, having remained absent, was set ex parte and the suit was decreed ex parte on 28-03-2013 in favour of the first respondent herein/plaintiff, of course, after



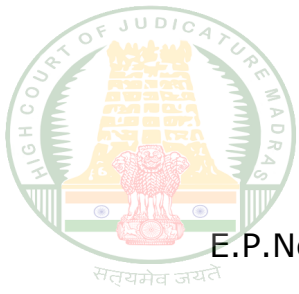
considering the oral and documentary evidence produced by the plaintiff.

iii) The petitioner herein had filed an application seeking to condone the delay of 72 days in filing petition to set aside the ex parte decree.

iv) The said application was dismissed by the Trial Court. Aggrieved against the same, the present civil revision petition has been filed by the first defendant, of course, with an application to condone the delay of 1666 days delay in filing the civil revision petition.

3. When the matter was taken up, there was no representation for the petitioner.

4. Ms.Vasudha Thiagarajan, learned counsel appearing for the petitioner would submit that the suit in O.S.No.774 of 2009 was filed for injunction and recovery of possession and removal of unauthorised construction, wherein decree was granted in favour of the first respondent herein/plaintiff on 28.3.2013. She would further submit that subsequent to the decree, execution petition has been filed in



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E.P.No.1805 of 2018 and by producing a copy of the order dated 17.11.2022 passed in the said Execution Petition, she would further submit that the execution petition has been allowed on 17.11.2022 and the pillars constructed in the suit property have also been removed.

5. A perusal of the order passed in the execution petition discloses that inspite of sufficient opportunity afforded to the first defendant, she did not properly contest the execution petition, instead, she had been protracting the issue on the basis of the present proceedings before this court, which was filed in the year 2019. Even before this court, the petitioner has not shown any interest in pursuing the civil revision petition.

6. Having heard the learned counsel for the petitioner and perused the materials available on record including the subsequent development in the case viz., the order dated 17.11.2022 passed in E.P.No.1805 of 2018 and the removal of pillars constructed in the suit property as contended by the learned counsel for the petitioner, this court is of the view that nothing survives for adjudication in the civil revision petition.



WEB COPY 7. In view of the above, this court is of the view that the Civil Miscellaneous Petition seeking to condone the exorbitant delay of 1666 days in filing the civil revision petition is liable to be dismissed and accordingly, it is dismissed. Consequently, the civil revision petition at SR stage is rejected. No costs.

12.2.2025.

Index: Yes/No.
Internet: Yes/No.
ssk.

To

1. VI Assistant Judge,
City Civil Court, Chennai.
2. The Commissioner,
Corporation of Chennai,
Ripon Building,
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A.D.JAGADISH CHANDIRA, J.

Ssk.

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