



CRP.No.4245 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.06.2025

CORAM:

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

C.R.P.No.4245 of 2023

and

C.M.P.No.25822 of 2023

Srinivasa Doss

.. Petitioner

Versus

1.P.Kalaidasan

2.P.Seshian

Both represented by

1.M.L.Umapath

2.G.Kesavan

3.The Commissioner

Corporation of Chennai

Rippon Buildings, Chennai – 600 003

4.Madras Metropolitan Development Authority

Presently Chennai Metropolitan Development Authority

Rep by its Member Secretary

Thalamuthu Natarajan Buildings

Chennai – 600 008

.. Respondents

Prayer:- Civil Revision Petition filed under Section 115 of Code of Civil Procedure to set aside the fair and decretal order dated 19.01.2023 passed in I.A.No.1 of 2022 in A.S.SR.No.7390 of 2022 on the file of the learned Principal City Civil Court at Chennai.

For Petitioner

: Mr.J.Ram



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For Respondents : Mr.R.Ravindran
Mr.P.K.Sabapathi for R1 & R2
Mrs.K.Aswini Devi, Standing Counsel
for R3
Mr.R.Thamaraiselvan for R4

ORDER

Challenging the order of the appellate court dismissing the application to condone the delay of 5758 days in filing the appeal under Order 41 Rule 3A of CPC, the present revision has been filed.

2.Originally, the respondents 1 and 2 filed a suit in O.S.No.3505 of 1997 on the file of the XI Assistant Court, City Civil Court at Chennai as against the petitioner and the respondents 3 and 4 for delivery of possession, permanent and mandatory injunction. The suit was decreed exparte on 13.09.2005. Against which, the petitioner filed an application in I.A.No.1697 of 2010 to set aside the exparte decree with a delay of 1453 days and the said application was dismissed vide order dated 15.09.2014. Thereafter, the power agent of the plaintiffs had filed an execution petition in E.P.No.2781 of 2019, the revision petitioner entered appearance in the execution proceedings and was set exparte. Thereafter, the revision petitioner filed an application to set aside the exparte order and that was



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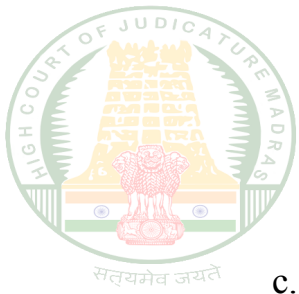
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allowed vide order dated 15.04.2021 and now, the execution petition is pending. While so, an application has been filed to condone the delay of 5758 days in filing the appeal under Order 41 Rule 3A of CPC before the appellate court as against the decree dated 13.09.2005. The only reason assigned by the petitioner to condone the delay is that due to old age, he could not contact his counsel to prefer the appeal in time. The appellate court dismissed the application vide order dated 19.01.2023. Challenging the same, the present revision.

3. The learned counsel for the petitioner submitted that medical ailment and old age of the petitioner, he could not approach the counsel to file appeal in time and therefore, the delay occurred. Further, he also tried to canvass as if the exparte decree and judgment does not contain any reasons, want for determination and the same is against the provisions of Order XX Rules 4 and 5 of CPC, therefore, the same is liable to be set aside. In support of his contentions, he placed reliance on the following judgments:

a. J.S.T.Nallappa vs. C.Mahendiran made in CRP.No.2238 of 2019 dated 24.08.2023;

b. R.Stella vs. V.Antony Francis reported in (2019) 5 LW 161;



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c. Ramachandran and others vs. Balakrishnan and others reported in (2020) 6 CTC 843;

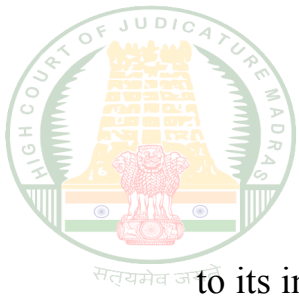
d. N.Maheswari vs. Mariappan and others reported in 2013-1-L.W. 63;

e. Meenakshisundaram Textiles vs. Valliammal Textiles Ltd reported in (2011) 3 CTC 168.

4. On the other hand, the learned counsel for the respondents 1 and 2 submitted that petitioner has not shown sufficient cause in condoning each days delay. The learned counsel placed reliance on the judgment of the Hon'ble Supreme Court in *Majji Sannemma v. Reddy Sridevi and others* reported in *AIR 2022 SC 332*, wherein, the Hon'ble Supreme Court has held that when no explanation much less a sufficient or a satisfactory explanation has been offered by the appellants therein, the High Court is not at all justified in exercising its discretion to condone such a huge delay. Hence, the learned counsel opposed the revision.

5. Heard both sides and perused the materials placed on record.

6. The Court, in exercising discretion, particularly in these types of petitions, has to see the conduct, behaviour and attitude of a party relating



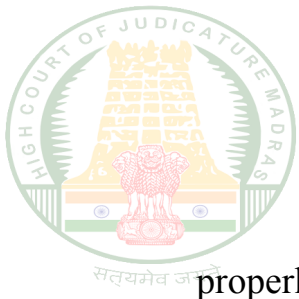
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to its inaction or negligence. The above factors are relevant to be taken into consideration as the fundamental principle is that Courts are required to weigh the scale of balance of justice in respect of both parties and the said principle cannot be given a total go-by in the name of liberal approach. There is an increasing tendency to perceive delay even in a non-serious matter. Hence, the delay due to nonchalant attitude should be curbed at the initial stage itself.

7. Though, the Courts have repeatedly held that every judgments should contain a concise statement of the case, the points for determination, the decision thereon and the reasons for such decision, the fact remains that in the present case, exparte decree had already been challenged by way of an application and the same was dismissed long back which had reached finality. Therefore, once the matter between the parties had reached finality, this Court is of the view that merely, on the ground that decree does not contain proper reasons the same cannot be set aside after a lapse of more than 15 years.

8. Further, it is also to be noted that even after entering appearance in the execution proceedings, the petitioner had not conducted the case



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properly and was set exparte, however, on further application, the exparte order in execution petition was allowed vide order dated 15.04.2021. Thereafter, filed application to condone the delay of exorbitant 5758 days days in filing the appeal. This Court is of the view that the petitioner ought to have been vigilant in pursuing the litigation and the callous attitude of the petitioner cannot be brushed aside while deciding an application under Section 5 of the Limitation Act. Therefore, once the delay has not been explained and no documents are produced to substantiate the cause of delay, as a matter of right, the petitioner should not be shown any liberal approach. When there is 'no cause' for the delay, it cannot be treated as 'sufficient case'.

9. The authorities cited above by the learned counsel for the petitioner cannot be applied mechanically to the facts of the present case. No doubt, every Court is bound by the precedents, however, the application of precedents should be consistent with the facts and circumstances of the case. It is relevant to note that the Hon'ble Supreme Court in the case of *Sridevi Datla vs. Union of India and others* reported in (2021) 5 SCC 321 held as follows:

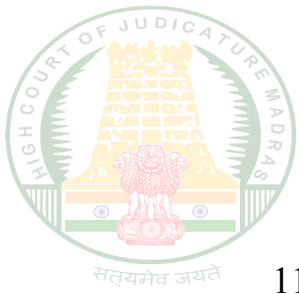


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“ 28. It is evident that the term sufficient cause is relative, fact dependent, and has many hues, largely deriving colour from the facts of each case, and the behaviour of the litigant who seeks condonation of delay (in approaching the court). However, what can broadly be said to be universally accepted is that in principle, the applicant must display bona fides, should not have been negligent, and the delay occasioned should not be such that condoning it would seriously prejudice the other party. ”

10. It is to be noted that the petitioner had suffered a decree way back in the year 2005 and the application to set aside the exparte decree was also dismissed on 15.09.2024, the petitioner ought to have filed a revision as against the dismissal or filed an appeal as against the exparte decree, instead, the petitioner had remained silent all these years. That proceedings had reached finality and certain rights too have been accrued based on the exparte decree. Therefore, now, filing application to condone the delay in filing the appeal with an enormous delay of 5758 days in view of this Court is only to protract the execution proceedings. This Court is of the definite view that the delay cannot be condoned on insufficient grounds and by abusing the process of law.



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11. Accordingly, this Civil Revision Petition is dismissed as devoid of merits. No costs. Consequently, connected miscellaneous petition is closed.

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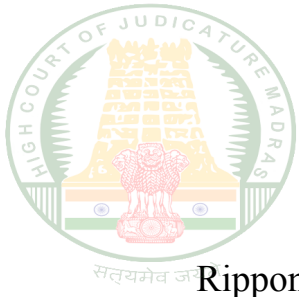
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Internet : Yes
Index : Yes/No
Speaking order / Nonspeaking order
Neutral Citation : Yes/No

To

1. The Principal Judge
Principal City Civil Court, Chennai

2. The Commissioner
Corporation of Chennai



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3. Madras Metropolitan Development Authority
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4. The Section Officer
VR Section, Madras High Court

N. SATHISH KUMAR, J.

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