

Selvarasu. Vs. Ramalingam

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Court : Chennai

Decided On : Jul-13-2012

Judge : G.Rajasuria, J.

Acts : [Code of Civil Procedure,\(CPC\) 1908](#) - Section 115, Order 9 Rule 13

Appeal No. : C.R.P.(NPD).No.2389 of 2012 and M.P.No.1 of 2012

Appellant : Selvarasu

Respondent : Ramalingam

Advocate for Pet/Ap. : Mrs.R.Meenal, Adv.

Judgement :

Civil Revision Petition filed under Section 115 of CPC against the fair and the decretal order dated 20.01.2012 passed in I.A.No.212 of 2010 in O.S.No.113 of 2006 on the file of the Principal Sub Court, Villupuram.

ORDER

1. Animadverting upon the order dated 20.01.2012 passed in I.A.No.212 of 2010 in O.S.No.113 of 2006 by the learned Principal Subordinate Judge, Villupuram, this civil revision petition is focussed.

2. Heard the learned counsel for the petitioner, who would echo the *cri de coeur* of his client to the effect that a delay of 154 days in filing the application to get the *ex parte* decree set aside under Order IX Rule 13 of CPC was allowed for no good reason. The original suit is of the year 2006 and in such a case, condoning such delay would be deleterious to the welfare of the plaintiffs, who are the revision petitioners herein.

3. A plain poring over and perusal of the records including the impugned order would reveal that the lower Court thought fit to give an opportunity to the defendant to participate in the proceedings, mainly on the ground that the petition concerned to file the application under Order IX Rule 13 of CPC got mixed with other bundles and the trial Court believed such version and on cost condoned the delay, in my opinion, warranting no interference.

4. In the interest of *audi alteram partem*, no interference with the order of the lower Court is warranted. Accordingly, this civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

5. The learned counsel for the petitioners would make an extempore submission that in the event of the *ex parte* decree being set aside, a time frame may be fixed for the early disposal of the O.S. itself.

6. I could see considerable force in the submission made by the learned counsel for the petitioners.

7. Accordingly, in the event of the lower Court allowing the application under Order IX Rule 13 of CPC and setting aside the *ex parte* decree, the main matter itself shall be disposed of within a period of three months thereafter.

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