

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.02.2015

CORAM

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.R.P. (PD) No.469 of 2015 &  
M.P.No.1 of 2015

B.Hemalatha ... Petitioner/ Plaintiff

Vs.

1.Dhanalakshmi

2.Senguttuvan

3.Purendiradasan

... Respondents/ Defendants

Prayer: Petition filed under Section 115 of the Code of Civil Procedure against the order in I.A.No.294 of 2010 in O.S.No.1369 of 2006 on the file of the II Additional District Munsif Court, Pondicherry and dismiss the delay condonation application and consequently confirm the exparte decree dated 8.07.2009.

For Petitioner : Mr.V.Balamurugane

O R D E R

This revision is filed challenging the order of the II Additional District Munsif, Puducherry in I.A..No.294 of 2010 in O.SNo.1369 of 2006.

2. The petitioner had instituted the suit against the respondents for permanent injunction. The defendants had received the summons and also filed the written statement on 03.11.2006. However, when the suit was taken up for trial, the defendants did not appear to prosecute the case and an exparte decree was passed against them on 08.07.2006. Thereupon, the defendants filed I.A.No.294 of 2010 to condone the delay of 188 days in filing the application to set aside the exparte decree.

3. In the affidavit filed in support of the petition, the defendants have stated that they engaged one Mr.R.B.Ashok Babu, Advocate, to conduct the case and they were not informed about the commencement of the trial and only after verification through the other counsel, they came to know about the exparte decree.

4. The petition was opposed by way of filing the counter. The learned District Munsif, Puducherry, allowed the application on

payment of cost of Rs.2000/- payable by the respondents 1 and 2 to the petitioner herein. Questioning the said order, the present revision is filed.

5. Mr.Balamurugane, learned counsel for the petitioner submitted that the respondents have pleaded a false case in their affidavit and they are not entitled to any indulgence of the Court. It is submitted that the learned counsel for the defendants have given a change of vakalat on 05.07.2009 itself, the suit decreed only on 08.7.2009. Therefore, the reasons assigned by the petitioner cannot be accepted.

6. Learned District Munsif having satisfied with the reasons given in the affidavit and to give an opportunity to the defendants to contest the case, allowed the application on payment of costs. It is true that the earlier counsel has given a change of vakalat even prior to the defendants were set exparte, but on the only ground that the rights of the defendants cannot be rejected at the threshold. I do not find any merit in this revision.

7. In the result, the Civil Revision Petition is dismissed. The trial Court shall dispose of the suit as expeditiously as possible, preferably on or before 30<sup>th</sup> June, 2015. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-  
Asst.Registrar (CS IV )

/true copy/

Sub Asst. Registrar

kal

To

The II Additional District Munsif Court,  
Pondicherry

1 cc to Mr.V. Balamurugan, Advocate, Sr. 8605

C.R.P. (PD) No.469 of 2015 &  
M.P.No.1 of 2015

SV (CO)  
kk 18/3