



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
DATED: 12.02.2015  
CORAM:

**THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA**

WEB COPY

C.R.P.(MD).NO.223 of 2015  
and  
M.P.(MD).No.1 of 2015

Latha

... Revision Petitioner

vs.

Chellakkannu Ammal

... Respondent

PRAYER: This Civil Revision Petition filed under Article 227 of Constitution of India, against the order and decree made in C.M.A.No.17 of 2014 dated 12.09.2014 on the file of the Principal Sub-Court, Madurai reversing the order and decree made in I.A.No.405 of 2009 in O.S.No.378 of 2005 dated 23.08.2013 on the file of the District Munsif Court, Madurai Taluk, Madurai.

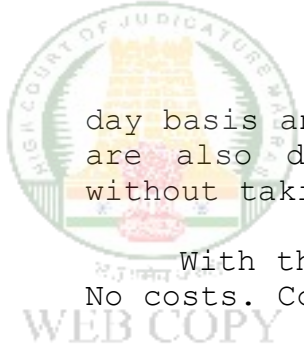
For Petitioner : Mr.M.Thirunavukkarasu

For Respondent : Mr.V.Nagendran

### O R D E R

The civil revision petition is preferred against the order passed in C.M.A.No.17 of 2014 by allowing the application under Order 9 Rule 13 of C.P.C., filed in I.A.No.405 of 2009 on the file of the District Munsif Court, Madurai Taluk, Madurai.

2.The defendant was set ex-parte in the suit and he had filed I.A.Nos.404 and 405 of 2009 for condonation of delay and for setting aside the ex-parte decree respectively. Both the applications were dismissed. Against the dismissal of I.A.No.404 of 2009, the revision was preferred before this Court and this Court allowed the revision on cost. Thereafter, he has filed an application in I.A.No.405 of 2009 which was taken up and the same was dismissed by the trial Court on the ground that the defendant had not made out the case for setting aside the ex-parte decree. Aggrieved by the same, an appeal in C.M.A.No.17 of 2014 was filed. The Principal Sub Judge, Madurai held that though the defendant had not mentioned the correct date of ex-parte decree and failed to prove her illness, allowed the application as this Court had condoned the delay in C.R.P.No.283 of 2010. The Lower Appellate Court has also held that since the defendant is a senior citizen and the suit is pending from the year 2005, directed the trial Court to dispose of the suit within a period of three months. No doubt, the appellate Court has found that there is no valid reason given by the defendant for his absence before the Court. However, this Court by exercising its discretion, thought fit to allow the application in the interest of justice. Therefore, this Court finds no infirmity in the order passed by the lower appellate Court. However, the District Munsif Court, Madurai is directed to dispose of the suit on merits and in accordance with law by taking it on day to



day basis and complete the trial on or before 30<sup>th</sup> April 2015. The parties are also directed to co-operate in the speedy disposal of the suit without taking any adjournments or filing unnecessary applications.

With the above direction, the civil revision petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(AS)

\\True copy\\

Sub Assistant Registrar

To

1.The Principal Subordinate Judge,  
Madurai.

2.The District Munsif, Madurai Taluk,  
Madurai.

+1cc to MR.V.NAGENDRAN, ADVOCATE SR.NO.6718

+1cc to MR.M.THIRUNAVUKKARASU, ADVOCATE SR.NO.6814

C.R.P. (MD) .No.223 of 2015  
12.02.2015

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