

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.01.2016

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAISWAMY

C.R.P.(NPD).No.4643 of 2014
and M.P.Nos.1 of 2014 & 1 of 2015

M/s.Crescent Auto Repairs & Services India Private Ltd.,
represented by its Authorized Signatory
Mr.Mohamed Bassam
No.9, Cenetop Road,
Chennai - 18.

... Petitioner

Vs.

1.Gopalakrishnan

G.Shanthi (Died) rep. by LRs R1, R3 & R4

2.Saravanan

3.Selvanathan

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the order and decreetal order dated 03.07.2014 made in I.A.No.46 of 2011 in O.S.No.177 of 2003 on the file of the Principal Sub Judge, Puducherry.

For Petitioner : Mr.H.Md.Farook

For Respondents : Mr.R.Sreedhar

ORDER

Challenging the fair and final order passed in I.A.No.46 of 2011 in O.S.No.177 of 2003 on the file of the Principal Sub Judge, Puducherry, the plaintiff has filed the above Civil Revision Petition.

2.The plaintiff has filed the suit in O.S.No.177 of 2003 for recovery of a sum of Rs.4,46,490/- together with interest.

3.The defendants remained absent before the trial Court and the trial Court set them exparte and passed an exparte decree on 07.11.2006. Thereafter, the defendants filed an application in I.A.No.46 of 2011 to condone the delay of 1479 days in filing the petition to set aside the exparte decree dated 07.11.2006. In the affidavit filed in support of the petition, the defendants have stated that the 2nd defendant seriously fell ill and ultimately died on 19.06.2007 at JIPMER Hospital. Since she was looking after the case, immediately, the legal heirs of the deceased 2nd defendant could not file the application to set aside the exparte decree, therefore, there is a delay of 1479 days in filing the petition to set aside the exparte decree. The averments stated in the affidavit filed in support of the petition were disputed by the plaintiff. The trial Court, taking into consideration the

case of both parties and also taking note of the fact that the 2nd defendant had died due to illness, rightly condoned the delay on payment of costs of Rs.1,000/-. Since the defendants have satisfactorily explained the reasons for the delay in the affidavit filed in support of the petition, the trial Court has rightly allowed the application.

4. In these circumstances, I do not find any error or irregularity in the order passed by the trial Court. The Civil Revision Petition is devoid of merits and the same is liable to be dismissed. Accordingly, the Civil Revision Petition is dismissed.

5. Since the suit is pending from 2003, I direct the Principal Sub Judge, Puducherry to dispose of the suit in O.S.No.177 of 2003, on merits and in accordance with law, within a period of four months from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petitions are closed.

Index : No
Internet : Yes
va

25.01.2016

To

The Principal Sub Judge,

Puducherry.

M.DURAIWAMY,J.
va

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