

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.01.2016

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

**C.R.P.(NPD).No.109 of 2016
and C.M.P.No.623 of 2016**

Sri Kanchi Kamakoti Pettam
rep by its Matathipathy Sri Jeyandra Saraswathi Swamigal
by his Sri Karyam Agent V.Viswanathan
residing at No.1, Salai Street,
Kancheepuram Town & Taluk.

... Petitioner

Vs.

Selvam

... Respondent

(cause title accepted vide order of Court dated 11.01.2016 made in
M.P.Nos.1 & 2 of 2015 in C.R.P.SR.No.77306 of 2015.)

Civil Revision Petition filed under Section 115 of the Civil Procedure
Code against the order and decretal order dated 10.03.2015 made in
I.A.No.618 of 2014 in O.S.No.801 of 2007 on the file of the Principal District
Munsif, Kanchipuram.

For Petitioner : Mr.Y.Jyothish Chander

ORDER

Challenging the fair and final order passed in I.A.No.618 of 2014 in
O.S.No.801 of 2007 on the file of the Principal District Munsif, Kanchipuram,
the plaintiff has filed the above Civil Revision Petition.

2.The plaintiff filed the suit in O.S.No.801 of 2007 for declaration, recovery of possession and for past and future profits.

3.Since the 4th defendant remained absent before the trial Court, the trial Court set him exparte and passed an exparte decree on 16.06.2012. Subsequently, the 4th defendant filed an application in I.A.No.618 of 2014 to condone the delay of 737 days in filing the petition to set aside the exparte decree. In the affidavit filed in support of the petition, the petitioner has stated that he was suffering from Kidney problem and that his counsel had died on 17.04.2010, therefore, he was not in a position to contest the matter in a proper manner. The plaintiff filed their counter disputing the averments stated in the affidavit filed in support of the petition. The trial Court, taking into consideration the case of both parties, accepted the reasons given by the 4th defendant and set aside the exparte decree on payment of cost of Rs.1,000/-. As already stated, the plaintiff has filed the suit for declaration, recovery of possession and for mesne profits. The 4th defendant has satisfactorily explained the reasons for his non appearance in an acceptable manner in the affidavit filed in support of the petition. Having satisfied with the reasons stated therein, the trial Court has rightly condoned the delay.

4.In these circumstances, I do not find any reason to interfere with 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 2007, the Principal District Munsif, Kanchipuram is directed to dispose of the suit in O.S.No.801 of 2007, on merits and in accordance with law, within a period of two months from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

Index : No
Internet : Yes
va

19.01.2016

Note: Issue order copy on 22.01.2016.

To

The Principal District Munsif,
Kanchipuram.

M.DURAIWAMY,J.
va

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