

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.09.2016

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN

CRP (PD) No.1912 of 2016
and C.M.P.No.9962 of 2016

Subramani (Died)

1. Rukku

2. Devan

3. Mahalingam

... Petitioners

Versus

Salammal

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 30.10.2015 made in I.A.No.47 of 2014 in O.S.No.359 of 2008 on the file of the Principal District Munsif Court in Kancheepuram.

For Petitioners : No appearance

For Respondent : Mr.X.Selvam Sounder

ORDER

This Civil Revision Petition is directed against the order dated 30.10.2015 passed in I.A.No.47 of 2014 in O.S.No.359 of 2008, whereby and whereunder, the learned Principal District Judge, Kancheepuram, allowed the application filed by the respondent by condoning the delay of 1473 days in filing the petition to set aside the ex parte decree.

2. None appears on behalf of the petitioners. Heard the learned counsel appearing for the respondent.

3. The plaintiff by name M.Subramani filed a suit in O.S.No.359 of 2008 against the respondent and obtained a decree ex parte. The respondent was not aware of the initiation of the suit and the ex parte decree passed by the Trial Court.

4. The respondent came to know of the decree only after obtaining an encumbrance certificate. The respondent immediately filed an application to set aside the ex parte decree along with an application to condone the delay of 1473 days in filing the petition.

5. The learned Trial Judge found that summons was not served on the respondent. The learned Trial Judge observed that the respondent was suffering from cancer and had undergone a major operation in 2008. The respondent through Exs.P2 and P3 proved that she was laid up. The learned Judge considered the entire background of facts and exercised the discretion by allowing the application.

6. I have perused the order and the materials available on record. I do not find any error or illegality in the order passed by the learned Trial Judge, warranting interference, by invoking the revisional jurisdiction under Article 227 of the Constitution of India.

7. In the upshot, I dismiss the Civil Revision Petition. No costs. Consequently, connected miscellaneous petition is closed.

09.09.2016

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To

The Principal District Munsif Court,
Kancheepuram.

K.K.SASIDHARAN, J.

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