

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.12.2016

CORAM

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

C.R.P.(PD) Nos.3999 of 2016 and 4000 of 2016

and C.M.P.No.20220 of 2016

Rishi Matriculation School
Rep by its Correspondence
Head Master

.. Petitioner in both C.R.Ps

Versus

1. The Manager
T.I.I.C Ltd, Katpadi Road,
Vellore -4

2. Minor Varsha
Represented by
Her Mothers/Guardian Manjula ..2nd Respondent in C.R.P.3999/16

Manjula ..2nd Respondent in C.R.P.No.4000/16

PRAYER: Civil Revision Petitions filed under Article 227 of the Constitution of India against the fair and decretal order passed in I.A.No.178 of 2013 and I.A.No.181 of 2013 in M.C.O.P.No.375 of 2007 and M.C.O.P.No.399 of 2007 respectively dated 14.07.2014 on the file of the I Additional District and Sessions Judge, Vellore.

For Petitioner : Ms.R.T.Sundari for
Mr.R.Margabandhu

ORDER

The second respondent in M.C.O.P.No.375 of 2007 and M.C.O.P.No.399 of 2007 has filed applications in I.A.No.178 of 2013 and I.A.No.181 of 2013 seeking to condone the delay of 505 days in filing the petitions to set aside the exparte order passed on 16.09.2011.

2. The first respondent-school in M.C.O.P.No.375 of 2007 and M.C.O.P.No.399 of 2007 is the revision petitioner herein. The claimants have filed M.C.O.Ps claiming compensation for the injuries sustained by them in a road accident. It is stated by the first respondent herein that no notice was served on them and hence, an ex-parte order was passed against them. Only after receipt of the notice in the Execution Petitions, the first respondent herein had knowledge about the ex-parte order and therefore, in the process, there is a delay of 505 days in filing the petitions to set aside the ex-parte order passed against them on 16.09.2011. The learned I Additional District and Sessions Judge, Vellore has allowed the applications, having been convinced with the reasons stated by the first respondent herein. It is stated that the first respondent herein that they had vacated from the address, where their summons were served.

Further, in the Execution proceedings, the first respondent has been served in a different address and not in the address which was served in I.A.No.33 of 2009. So, on this reason, the learned trial Judge feels that there was no proper service of notice on the first respondent and having been satisfied with the reasons given for the delay, by exercising the discretion, the learned trial Judge allowed the condone delay petitions. It was also held by the learned trial Judge that the reasons assigned have been satisfactorily explained and observed that the delay was neither willful nor wanton. The said orders are now challenged in these Civil Revision Petitions without any merit.

3. The grounds of Civil Revision Petitions project as if the application is one for setting aside the ex-parte order filed under Order 9 Rule 13 C.P.C, whereas, what has been challenged in the Civil Revision Petitions is the orders condoning the delay. Therefore, the revision petitions are not maintainable.

4. As there are no merits, this Civil Revision Petitions are dismissed. No costs. Consequently, connected miscellaneous petition is closed.

22.12.2016

srn

To

The I Additional District and Sessions Judge,
Vellore.

PUSHPA SATHYANARAYANA.J

srn

C.R.P.(PD) Nos.3999 of 2016 and 4000 of 2016

and C.M.P.No.20220 of 2016

22.12.2016

<http://www.judis.nic.in>