

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

CIVIL REVISION PETITION NO.1313 OF 2016

ORDER:

Heard Sri T.C. Krishnan, Learned Counsel for the petitioner and Sri N. Siva Reddy, Learned Counsel for the respondent and, with their consent, the Civil Revision Petition is disposed of.

The application to condone the delay, in filing a petition to set aside the *ex parte* decree of 141 days, was rejected by the Court below in the order under revision in I.A. No.1005 of 2015 in O.S. No.708 of 2014 dated 20.01.2016. In the said order, the Court below noted that, while the delay was only 141 days, the petitioner had sought to justify the delay on the ground that they had not received summons which was evidently false. In the affidavit, in support of the CRPMP filed before this Court, the petitioner admits that there was a mistake on their part; and they had inadvertently, by mistake, stated in the affidavit that the suit summons were not served. The delay of 141 days is sought to be justified on the ground that the petitioner was busy with conducting examinations etc.

Sri T.C. Krishnan, Learned Counsel for the petitioner, would request this Court to condone the delay recording his undertaking to deposit the entire arrears of rent claimed by the petitioner in the Suit i.e., for Rs.3,71,475/- within eight weeks from today. He would request that the petitioner's interest be protected by making it clear that, payment of the said amount by the petitioner herein to the respondent, shall be subject to the result of the Suit.

Sri N. Siva Reddy, Learned Counsel for the respondent, would fairly state that as the petitioner has expressed his willingness to pay the entire arrears of rent, and as the delay of 141 days is not inordinate, it could be condoned on terms.

The delay of 141 days, in filing the petition to set aside the *ex parte* decree, is condoned on condition that the petitioner pays Rs.3,71,475/- to the respondent, in terms of the oral undertaking given to this Court, within eight weeks from today. They shall also pay the respondent costs of Rs.5,000/- (Rupees five thousand only), for condoning the delay of 141 days in filing the petition to set aside the *ex parte* decree, within eight weeks from today. On furnishing proof of payment of Rs.3,71,475/- towards arrears of rent, and Rs.5,000/- as costs, the delay of 141 days in filing the petition, to set aside the *ex parte* decree, shall stand condoned. As it is stated before this Court that the petitioner herein has filed the written statement, along with the application to set aside the *ex parte* decree, the *ex parte* decree, passed by the Court below, is set aside, and the suit is restored to file, after the delay of 141 days, as directed herein above, is condoned. Failure on the part of the petitioner, to comply with the aforesaid order, shall result in revival of the *ex parte* decree passed by the Court earlier, and it would then be open to the respondent herein to execute the decree in accordance with law. The Civil Revision Petition is disposed of accordingly. The miscellaneous petitions pending, if any, shall also stand disposed of. No costs.

RAMESH RANGANATHAN, J

Date: 11.03.2016.
MRKR