

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.07.2017

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THE HON'BLE Mr.JUSTICE M.GOVINDARAJ

C.R.P.(NPD) No.2471 of 2017
AND C.M.P.No.11682 of 2017

T.J.Pandian

... Petitioner

Vs.

1. C.K.Mani

2. M.Sathishkumar

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, as against the fair and decretal order of the learned Principal Sub Judge, Coimbatore in I.A.No.736 of 2016 in O.S.No.98 of 2009 dated 24.04.2017.

For Petitioner: Ms.Ramya

ORDER

This Civil Revision Petition is directed against the order passed in I.A.No.736 of 2016 condoning the delay of 517 days in filing the petition to set aside the *ex parte* order. The *ex parte* decree was passed on 10.12.2014. It was stated that the first petitioner's wife was

admitted in the hospital for treatment of cancer and passed away on 27.02.2016. Due to the continuous treatment taken for cancer, he was not in a position to appear before the Court and prosecute the same. The trial Court after considering Ex.P1 to Ex.P11, i.e. the discharge summary, death certificate, etc, considered it fit to condone the delay of 517 days on condition that a sum of Rs.2,000/- be paid to the respondent. Against the order condoning the delay of 517 days in filing the petition to set aside the ex parte decree, as already stated, the revision petitioner is before this Court.

2. Ms.Ramya, learned counsel appearing for the petitioner vehemently contested that this is the second occasion that the respondents have indulged in filing the petition to set aside the *ex parte* order. Therefore, condoning the delay of 517 days is not justified. She would also contest that the suit is of the year 2009 and to protract the proceedings, the respondents are indulging in such dilatory tactics.

3. Considering the facts and circumstances of this case, this Court finds it reasonable to condone the delay, as the respondents

have proved sufficient cause by adducing proper evidence for the delay caused in filing the petition. The trial Court has elaborately discussed the evidence which has been adduced from the date of the order setting the respondents *ex parte* till the condone delay petition was allowed.

4. I do not find any discrepancy in the order. Therefore, the order passed by the trial Court in I.A.No.736 of 2016 in O.S.No.98 of 2009 is confirmed. However, the learned counsel for the petitioner would submit that the suit is of the year 2009 and it is pending for the past eight years. Considering the long pendency, a direction is issued to the Court below to dispose of the suit within six months from the date of receipt of a copy of this order.

5. With these observations, this Civil Revision Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

25.07.2017

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M.GOVINDARAJ, J.

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To

The Principal Sub Judge, Coimbatore.



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