

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **27.04.2017**

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

C.R.P.(N.P.D.) No. 2537 of 2013 and
M.P.No.1 of 2013

Alamelu

...Petitioner

Vs

Santhanalakshmi

...Respondent

Prayer:- Civil Revision Petition filed under Article 227 of Constitution of India, against the fair and decretal order dated 24.01.2013 made in I.A.No.520 of 2012 in O.S.No.517 of 2011 on the file of the II Additional Sub Court, Salem.

For Petitioner : Mr.M.K.Madhubalan for
Mr.N.Manokaran

For Respondent : Mr.D.Shivakumaran

ORDER

The petitioner filed a suit for specific performance in O.S.No.517 of 2011 and obtained a decree *ex parte*. The respondent filed an application to set aside the *ex parte* decree along with an application in I.A.No.520 of 2012 to condone the delay of 36 days. The learned trial Judge allowed the application and condoned the delay. The said order

is under challenge in this Civil Revision Petition.

2. The learned counsel for the petitioner vehemently contended that there was no attempt on the part of the respondent to explain each days' delay. According to the learned counsel, the Trial Court, without considering the merits of the matter, by a very brief order, condoned the delay. The order is therefore, liable to be set aside.

3. I have also heard the learned counsel for the respondent.

4. The suit in O.S.No.517 of 2011 was filed by the petitioner on the strength of an agreement alleged to have been executed by the respondent. The suit was decreed on account of the non-appearance of the respondent. Thereafter, the respondent filed an application to set aside the ex parte decree. The application was accompanied by an interlocutory application in I.A.No.520 of 2012 to condone the delay of 36 days.

5. The respondent in the affidavit filed in support of the application in I.A.No.520 of 2012 contended that he was not keeping well. It was further contended that his son was not well and as such, he could not file a petition within the outer time limit prescribed by the

statute.

6. The application was opposed by the petitioner.

7. The learned Trial Judge was of the view that the delay is only few days and as such, the same deserves to be condoned. The learned Trial Judge exercised the discretion taking into account the case pleaded by the respondent. There is no question of re-appreciating the reasons for the purpose of taking a different view by this Court. I am therefore of the view that the Revision Petition deserves to be dismissed.

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

27.04.2017

asi/svki

To
II Additional Sub Court, Salem.

K.K.SASIDHARAN,J.

svki

C.R.P.(NPD) No. 2537 of 2013

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