

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **04.04.2017**

CORAM:

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

C.R.P.(N.P.D.) No.2710 of 2013

K.R.Ravi @ KK.R.Ravichandar : Petitioner

versus

M.Kandasamy Goundar : Respondent

PRAYER: Revision filed against the order dated 08.08.2011, in I.A.No.621 of 2010 in O.S.No.295 of 2005 on the file of the Principal Subordinate Judge, Salem.

For petitioner :: Mr.E.Durai Vaiyapuri

For respondents :: Mr.M.Devaraj

ORDER

The interlocutory application filed by the petitioner to condone the delay of 665 days in filing the application to set aside the exparte decree was dismissed by the Trial Court. The order is under challenge at the instance of the petitioner in I.A.No.621 of 2010 in O.S.No.295 of 2005 on the file of the Principal Subordinate Judge, Salem.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondent.

3. The petitioner filed a suit in O.S.No.295 of 2005 before the principal Subordinate Court, Salem for a money decree. The suit was decreed exparte, by Judgment and Decree dated 11 March 2008. The petitioner filed application in I.A.No.621 of 2010 to condone the delay of 665 days in filing the application to set aside the exparte decree.

K.K.SASIDHARAN, J.

(tar)

4. The learned Trial Judge notwithstanding the evidence produced by the petitioner to demonstrate that he had undergone kidney transplantation and went to Chennai for medical check up, disbelieved the reasoning and dismissed the application. The petitioner was examined as P.W.1. The petitioner marked Ex.P-1, certificate issued by the medical officer. The learned Trial Judge notwithstanding the evidence tendered by the petitioner with regard to his illness, dismissed the application. The learned Trial Judge erred in disbelieving the petitioner in spite of evidence produced by him indicating the treatment. I am therefore of the view that the impugned order is liable to be set aside.

5. In the result, the order 8 August 2011 is set aside. The application in I.A.No.621 of 2010 is allowed.

6. In the upshot, I allow the civil revision petition. No costs.

04.04.2017

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To

The Principal Subordinate Court, Salem.

C.R.P.(N.P.D.) No.2710 of 2013

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