



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.01.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M. VELUMANI

CRP(MD).No.193 of 2017and

CMP(MD).No.889 of 2017

S.K. Veluchamy @ Steephan

Revision Petitioner

Vs.

K. Kalimuthu

Respondents

Prayer: This Civil Revision Petition is filed under Section 115 of the Civil Procedure code to set aside the order fair and decreetal order dated 10.12.2015 passed in I.A.No.243 of 2015 in O.S.No.222 of 2013, on the file of the Sub Court, Theni by allowing the Civil Revision Petition.

For Petitioner : Mr.S.K.Veluchamy @ Steephan
Party in Person

O R D E R

This Civil Revision Petition is filed to set aside the order fair and decreetal order dated 10.12.2015 passed in I.A.No.243 of 2015 in O.S.No.222 of 2013, on the file of the Sub Court, Theni

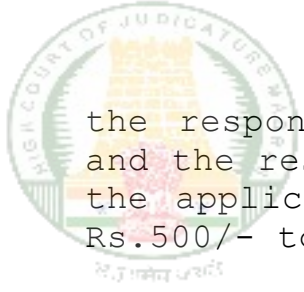
2. The petitioner is the plaintiff in O.S.No.222 of 2013, on the file of the Sub Court, Theni. The respondent is the defendant.

3. The grievance of the petitioner is that the learned Subordinate Judge, Theni allowed the application to condone the delay of 233 days, based on the false averments made by the respondent in the affidavit. In the suit filed by the petitioner an ex parte decree was passed on 08.08.2014. The respondent filed an application in I.A.No.243 of 2015 to condone the delay in filing the petition to set aside the ex parte decree.

4. According to the respondent, the petitioner has given wrong address of the respondent in the suit. The respondent during that time was living with his son at Nellur in Andhrapradesh. When he met one of his relative in marriage, he was informed about the suit filed by the petitioner. After verification through Advocate, he filed an application to condone the delay of 233 days in filing a petition to set aside the ex parte decree. According to the respondent, the suit summon was not served. The petitioner denied the averments made by the respondent.

<https://hcservices.ecourts.gov.in/hcservices/>

5. The learned Judge considering all the averments in the affidavit and counter affidavit and materials on record held that



the respondent has given sufficient reason to condone the delay and the respondent was not directly served in the suit and allowed the application on condition that respondent has to pay a sum of Rs.500/- to the petitioner on or before 17.12.2015.

6. Against that order, present Civil Revision Petition has been filed.

7. Heard the petitioner who appeared in person.

8. It is well settled that application to condone the delay must be considered liberally and length of delay is not criteria. Party must give sufficient reason for condoning the delay and intention of the party must be bonafide. Party must be given an opportunity to putforth his case on merits and should not be shut out at the threshold itself.

9. In view of the well settled proposition, there is no irregularity or illegality in the order passed by the learned Subordinate Judge, Theni, warranting interference by this Court.

10. The suit is of the year 2013, the learned Subordinate Judge, Theni, is directed to dispose of the suit as expeditiously as possible in any event not later than 31st July 2017.

11. In the result, the Civil revision petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(Co)

/True copy/

Sub Assistant Registrar

To
The Subordinate Judge, Theni

trp
AE/JM/13.02.2017/2P/2C

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