

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.02.2018

CORAM:

THE HONOURABLE MR. JUSTICE **D. KRISHNAKUMAR**

CRP(PD).No.354 of 2018  
and CMP.No.1868 of 2018

Balaji

.. Petitioner

Vs

1.Nagesh  
2.Sumathi

.. Respondents

**PRAYER**

Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decreetal order dated 05.06.2017 passed in IA.No.737 of 2017 in OS.No.23 of 2013 on the file of the Subordinate Court, Ponneri

For Petitioner : Mr.L.K.Manjunath

**ORDER**

According to the revision petitioner, the revision petitioner has filed a suit in OS.No.23 of 2013 before the Subordinate Court,

Ponneri against the respondent for declaration of title and recovery of vacant possession. The respondent did not file written statement in the suit, despite the several opportunities granted and the respondent was set ex-parte. The trial court also passed ex-parte decree on 06.11.2014 in favour of the revision petitioner. Thereafter, the respondent filed an application in IA.No.737 of 2015 under Section 5 of the Limitation Act to condone the delay of 146 days in filing the application to set aside the ex-parte decree. In spite of the objection made by the revision petitioner, the trial court has allowed the application on condition that the respondent shall pay a sum of Rs.2,000/- to the respondent. Therefore, the revision petitioner has filed the present Civil Revision Petition before this Court.

2. The learned counsel for the revision petitioner would submit that there is no sufficient cause has been shown in the affidavit to condone the delay of 146 days. Therefore, the order of the court below is liable to be set aside.

3. Heard the learned counsel for the revision petitioner and perused the materials available on record.

4. At this juncture, it is useful to extract the decision of the Hon'ble Supreme Court in the case of *Esha Bhattacharjee vs. Managing Committee of Raghunathpur Nafar Academy & Ors.*, reported in **(2013) 12 SCC 649**, the Hon'ble Supreme Court has observed that there should be a liberal, pragmatic, justice-oriented, non-pedantic approach while dealing with an application for condonation of delay, for the courts are not supposed to legalise injustice but are obliged to remove injustice.

5. In the light of the facts and circumstances of the case and the decision cited supra, this Court is not inclined to interfere with the orders passed by the court below and hence, the Civil Revision Petition is liable to be dismissed. The learned counsel for the revision petitioner requests this Court to direct the court below to dispose of the suit at an earliest.

6. On the request of the learned counsel for the revision petitioner, considering that the suit is of the year 2013, this Court is inclined to direct the Subordinate Court, Ponneri to dispose of the suit in OS.No.23 of 2013 on merits and in accordance with law as expeditiously as possible preferably within a period of eight months

from the date of receipt of a copy of this Order.

7. The Civil Revision Petition is dismissed with above direction. Consequently, the connected miscellaneous petition is closed. No costs.

02.02.2018

Speaking/Non-Speaking order

Index :Yes/No

Internet:Yes/No

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Note: Issue order copy on 08.02.2018



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To

The Subordinate Court,  
Ponneri



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**D. KRISHNAKUMAR J.,**

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