



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.07.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE M.V. MURALIDARAN

C.R.P.(MD)No. 91 of 2018

1. Subramani
2.Palanisamy : Petitioners

-Vs-

Pappayee @ Palaniyammal : Respondent

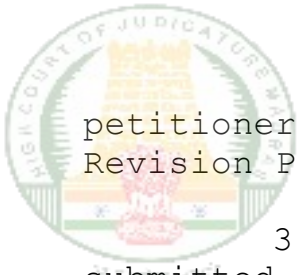
PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 31.10.2017 in I.A.No.35 of 2017 in O.S.No.40 of 2011 on the file of the learned Principal District Judge, Karur and allow the same.

For Petitioners : Mr.V. Balaji
For respondent : Mr. I. Velpradeep

O R D E R

This Civil Revision Petition is filed to set aside the fair and decreetal order dated 31.10.2017 in I.A.No.35 of 2017 in O.S.No.40 of 2011 on the file of the learned Principal District Judge, Karur and allow the same.

2. The revision petitioners are the defendants-1 & 2 and the respondent herein is the plaintiff in O.S.No.40 of 2011. The respondent herein/plaintiff has filed a suit in O.S.No.40 of 2011 before the learned Principal District Judge, Karur, for permanent injunction restraining the defendants, their men or any one on their behalf from alienating or encumbering over the suit properties including the plaintiff's 1/5th share to third parties. Due to non-appearance of the revision petitioners herein/defendants-1 & 2, the ex-parte decree was passed. Thereafter, the revision petitioners herein/defendants-1 & 2 have filed a interlocutory application in I.A.No.35 of 2017 in O.S.No.40 of 2011 to condone the delay of 1562 days in representing the application to set aside the exparte decree. The learned Principal District Judge, Karur has dismissed the said application stating that the petitioners have not given any valid reason to condone the delay. Aggrieved over the same, the revision



petitioners herein/defendants-1 & 2 have filed the present Civil Revision Petition.

3. The learned counsel appearing for the petitioners submitted that the revision petitioners having valid reasons mentioned in their written statement and that the ex-parte decree set aside petition was filed in time i.e., within the period of limitation and he prays for allowing this Civil Revision Petition.

4. It is well settled principles of law that application to condone the delay must be considered liberally and length of delay is not a criteria. The party must be given sufficient reasons for condoning the delay and the intention of the party must be *bona fide* and they must be given an opportunity to put forth their case on merits and should not be shut out at the threshold itself.

5. Keeping in mind the same, if the present case is looked into, this Court is of the view that the petition ought to be allowed and the order dated 31.10.2017 made in I.A. No.35 of 2017 in O.S.No.40 of 2011 on the file of the Principal District Court, Karur, is liable to be set aside, subject to certain conditions.

6. In the result, this Civil Revision Petition is allowed by setting aside the order dated 31.10.2017 made in I.A. No.35 of 2017 in O.S.No.40 of 2011 on the file of the Principal District Court, Karur, and the application in I.A.No.35 of 2017 is allowed and the delay is condoned on condition that the petitioners are directed to pay a sum of Rs.10,000/- (Rupees Ten Thousand only) to the learned counsel for the respondent, within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To

The Principal District Judge, Karur.

+ 1 cc TO Mr.V.Balaji , Advocate in SR No. 73347

ksa

AE/SV/SAR3/31.07.2018/2P/3C

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

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