



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 05.09.2018

CORAM:

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

Rev. Aplc (MD) No. 59 of 2018

in

CRP (PD) (MD) No. 462 of 2013

M. Rajappa

..Review Petitioner / Petitioner/
Petitioner/1st Defendant

Vs.

1.L.Anandavalli

2.M.Jothi

3.M.Thilagavathi

... 1 to 3 Respondents/ 1 to 3 Respondents
1 to 3 Respondents/1 to 3 Plaintiff

4.G.Gunasekaran

5.R.Kathiresan

6.C.Senthamilselvi

7.S.Murugan

8.R.Chellakannu

9.K.Ravichandran

10.K.Murali Kannan

11.D.Senthamarai Selvi

12.R.Shanthi

13.R.Renuka Devi

...4 to 13 Respondents/ 4 to 13 Respondents
4 to 13 Respondents/3 to 12 Defendants

PRAYER: Review application filed under Order 47 Rule 1 r/w. Section 114 of Civil Procedure Code to review the order dated 20.06.2017 passed in C.R.P(PD) (MD) No.462 of 2013 on the file of this Honourable Court.

Prayer in CRP(MD)No 462 of 2013 :

Petition filed under Article 227 of the Constitution of India, against the order order passed in I.A.no.304 of 2011 in O.S.No.149 of 2007 on the file of the 2nd Additional District and Sessions Judge, Thanajvur dated 29/01/2013.

For Petitioner : Mr.Meenakshi Sundaram
For R.Murugan

For Respondents
No.2 and 3 :Mr.R.Rajaraman
No.4 to 8 : Mr.V.Chandrasekar
No.10 to 13 : Mr.A.Arun Prasad

ORDER

<https://hcservices.ecourts.gov.in/hcservices/>
This review petition has been filed in respect of the order passed by this Court in CRP(PD) (MD) No.462 of 2013 on



20.06.2017. The said Civil Revision Petition, challenging the dismissal of the application filed to condone delay of 152 days in filing petition to set aside the exparte decree was found devoid of merits by this Court.

2. The revision petitioner contended that he was suffering from loss of memory power and taking native treatment. The explanation given by the petitioner for delay was bereft of supporting documents. This court dismissed the revision pointing that the claim of the revision petitioner is totally unbelievable without medical record.

3. Against which the revision petitioner has preferred Special Leave Petition in SLP No.3593 of 2018 before the Honourable Supreme Court, wherein the Honourable Supreme Court has passed the following order:

"....

Delay condoned

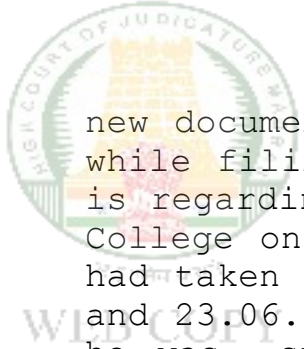
Application for substitution is allowed

Preliminary ex-parte decree has been passed against the petitioner. The petitioner made application for setting aside the same. However, the application was delayed by 152 days and therefore, this application was dismissed on this ground. The petitioner filed revision petition there against which was also dismissed, inter alia, on the ground that though the petitioner had taken up the ground that he was suffering from certain illness, no medical record or no documentary evidence in support thereof is filed.

In this petition, the petitioner has annexed certain documents which, accordingly to him, show that he was not well during that period. The petitioner, in these circumstances, can approach the High Court by filing a review petition placing the aforesaid documents on record. If the review petition is filed within 30 days, the same shall be considered on merits and shall not be dismissed on the ground of delay.

*The special leave petition stand disposed of
Pending applications stands disposed of".*

4. Pursuant to the above said order, the review petition has been filed. Though in the Honourable Supreme Court order there is reference about certain documents annexed in the Special leave petition, except the copy of the medical report for taking
<https://hccs.cemad.gov.in/hwservices> is found as item 10 in typed set of papers filed along with the revision petition and the very same document again filed in the typed set of papers along with review petition. No



new document filed either while filing Civil Revision Petition or while filing the present review petition. The said medical report is regarding the admission of the petitioner in Thanjavur Medical College on 11.05.2005 and discharge on 23.05.2005. Thereafter he had taken some treatment as out patient on 26.05.2005, 09.06.2005 and 23.06.2005. Documents which would substantiate his plea that he was suffering from loss of memory, brain nervousness, since 30.11.2007, till he filed the application as a reason to set aside the exparte order with delay of 152 days is not filed.

5. In fact this Court dismissed the review petition only after the perusal of the records and found that this petitioner has entered appearance on receipt of suit summons on 29.11.2007, which is much after the date of the treatment shown in the medical report. Thereafter he has filed the written statement but allowed the suit to go for ex parte. During the relevant point of time there is no evidence to show he was not mentally sound.

6. Hence the review petition is dismissed. No costs.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar(CS-IV)

TO

The II Additional District and Sessions Judge,
Thanajvur.

+1cc to Mr.R.Murugan, Advocate Sr.No.82551
+1cc to Mr.V.Chandrasekar, Advocate Sr.No.82684
+1cc to Mr.R.Rajaraman, Advocate Sr.No.82582

AAV

VB/RSK/SAR4/10.10.2018/3P/5C

Rev.Aplc (MD) No. 59 of 2018
05.09.2018