



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.06.2018

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE C.T.SELVAM

C.R.P. (MD) No.1121 of 2018
and C.M.P. (MD) No.4814 of 2018

Kabeer

...Petitioner/Petitioner/1st Defendant

Vs

1.K.M.Kaja Mydeen (Died)
2.Habiba
3.Rasool
4.Ramjan
5.Yusuf
6.Sherif
7.Mydeen Fathima
8.Mimoon

...Respondents/ Respondents/Plaintiffs

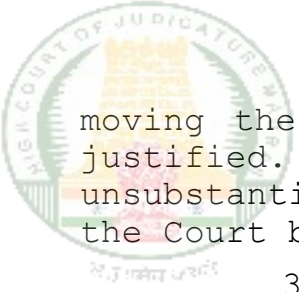
Prayer: Civil Revision Petition filed under Section 115 Cr.P.C., praying to set aside the Fair order and Decreetal order passed in I.A.No.454 of 2015 in O.S.No.490 of 2009 on the file of 1st Additional District Munsif Court, Tirunelveli dated 26.02.2018.

For Petitioner : Mr.T.Selvan

O R D E R

This revision challenges the order of learned I Additional District Munsif, Tirunelveli, dated 26.02.2018, passed in I.A.No.454 of 2015 in O.S.No.490 of 2009.

2.The petitioner having suffered an exparte decree in an action moved by the deceased 1st respondent based upon an agreement of sale has filed I.A.No.454 of 2015 in O.S.No.490 of 2009, seeking condonation of delay of 1580 days in moving the application to set aside the exparte decree dated 27.01.2010. In dismissing such application, the Court below has taken note of the position that as against the petitioner's claim of being employed abroad and visiting India over short periods, the respondents contention of the petitioner and his brother having filed an action in O.S.No.83 of 2009 before Sub Court, Tirunelveli and the written statement filed therein by the 1st respondent herein/1st Defendant informed the pendency of O.S.No.490 of 2009 and thus the petitioner was very much aware of the action and further that such contention of the first respondent herein has not been met by the petitioner. Further the claim of the petitioner of employment abroad having precluded his



moving the Court earlier to set aside the ex parte decree was not justified. The grounds of illness urged were also found unsubstantiated. This Court does not find any error in the order of the Court below.

3. Under such circumstances, the Civil Revision stands dismissed. Consequently, connected miscellaneous petition also stands dismissed. No costs.

Sd/-

Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar

To

The I Additional District Munsif,
Tirunelveli.

+1CC to Mr.T.Selvam Advocate in SR.No.68332.

SJ

DS/SKN-RSK/SAR-3 :02.07.2018: 2P/3C

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