



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 02.07.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.V. MURALIDARAN

C.R.P. (MD) No.1297 of 2018 and
CMP (MD) .No.5529 of 2018

1.S.Vasanthi

2.S.Vetrivel

: Petitioners/Petitioners/
Defendants

-Vs-

S. Palanisamy

: Respondent/Respondent/
Plaintiff

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decreetal order dated 17.11.2017 in I.A.No.244 of 2017 in O.S.No.19 of 2012 on the file of the Principal District Judge, Karur.

For Petitioner : Mr.K. Prabhkar

For Respondent : Mr. R. Devaraj

O R D E R

This Civil Revision Petition is filed against the fair and decreetal order dated, 17.11.2017 made in I.A.No.244 of 2017 in O.S.No.19 of 2012 on the file of the learned Principal District Judge, Karur.

2. The revision petitioners herein are the defendants in the suit in O.S.No.19 of 2012, on the file of the Principal District Court, Karur. The respondent / plaintiff has filed the said suit for recovery of money and the said suit was decreed ex parte on 21.07.2014. Thereafter, the revision petitioners / defendants, have filed an application in I.A.No.244 of 2017 to condone the delay of 574 days in re-presenting the application to set aside the ex parte decree and the same was dismissed by the learned Principal District Judge, Karur, stating that the petitioners have not given any valid reason to condone the delay. Aggrieved over the same, the revision petitioners have filed the present Civil Revision Petition.

3. The learned counsel appearing for the petitioners submitted that due to the reason that the bundles were mixed up in the Advocate's office, the revision petitioners are not able to



conduct the case. In such circumstances, the said suit was decreed ex parte on 17.11.2017. He further submitted suit is for recovery of money allegedly received by the deceased husband and father of the petitioners.

4. It is well settled principle 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 17.11.2017 made in I.A.No.244 of 2017 in O.S.No. 19 of 2012 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 17.11.2017 made in I.A.No.244 of 2017 in O.S.No. 19 of 2012, on the file of the learned Principal District Court, Karur, and the application in I.A.No.244 of 2017 is allowed and the delay is condoned on condition that the petitioner is directed to pay a sum of Rs.5,000/- (Rupees Five Thousand only) to the respondent counsel, within a period of two weeks from the date of receipt of a copy of this order. No order as to costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

The Principal District Judge,
Karur.

+1CC to Mr.K. Prabhkar, Advocate, SR.No.70718

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TRP
ES/PN/SAR 4/16.07.2018/2P/3C