



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 21.08.2018
CORAM

THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN

WEB COPY

C.R.P. (NPD) (MD) No.189 of 2016
and
C.M.P. (MD) .No.840 of 2016

Samson Edwards .. Petitioner/Petitioner/2nd Defendant

/Vs./

1.Jayarajan Edwards .. 1st Respondent/1st Respondent/Plaintiff
2.Hepsibai
3.Greetal Packiavathy
4.Vijayamary Gold
5.Sugirtha Pearl .. Respondents 2 to 5/Respondents 2 to 5/
1,3,4,5 Defendants

(Respondents 2 and 4 were set exparte before trial Court hence notice to them in Civil Revision Petition may be dispensed with)

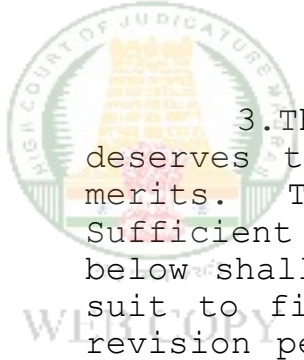
PRAYER: This Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, to set aside the fair and decreetal order dated 18.11.2015 passed in I.A.No.705 of 2012 in O.S.No.123 of 2011 on the file of Sub Court, Kuzhithurai by allowing this Civil Revision Petition.

For Petitioner : Mr.V.Meenakshisundaram for
Mr.D.Nallathambi

For Respondents : Mr.K.Samidurai for R1
No Appearance for R3
R5 - Left
RR2&4-Exparte

ORDER

The second defendant in O.S.No.123 of 2011 on the file of the Sub Court, Kuzhithurai is the revision petitioner. He suffered an exparte decree. To set aside the same, he filed an application under Order 9 Rule 13 of C.P.C. There was a delay in filing the said application. To condone the said delay, I.A.No.705 of 2012 was filed. The court below dismissed the same. Questioning the correctness of the said order, this civil revision petition has been filed.



3.This court is of the view that the revision petitioner deserves to be given one more opportunity to defend the suit on merits. The delay cannot be said to be inordinate in any event. Sufficient cause has been set out to explain the delay. The Court below shall also number the set aside application and restore the suit to file. However, this can be done only on terms that the revision petitioner shall pay a sum of Rs.5,000/- by way of Demand Draft taken in the name of the plaintiff. This shall be paid within a period of three weeks from the date of receipt of a copy of this order. If this condition is not fulfilled, this order will automatically stand recalled and the civil revision petition shall stand dismissed.

4.Since the suit is of the year 2011, the counsel for the petitioner undertakes to co-operate for quick disposal. The suit shall be disposed of by the Subordinate Judge, Kuzhithurai, within a period of 6 months from the date of receipt of a copy of this order.

5.With the above directions, this Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar(CS-I)

To

- 1.The Subordinate Judge,
Kuzhithurai.
- 2.The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai. **(2 copies)**

+1CC to Mr.D.Nallathambi, Advocate, SR.No.79604
+1CC to Mr.K.Samidurai, Advocate, SR.No.79497

C.R.P. (NPD) (MD) No189 of 2016
21.08.2018

TM
ES/SKN/RSK/SAR 1/20.09.2018/2P/6C