



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.08.2018

CORAM

THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN

WEB COPY

C.R.P.PD[MD]No.212 of 2016

and

C.M.P.[MD]No.922 of 2016

1. The Alankulam Panchayat Union,
Through its Executive Officer,
Alankulam,
Tirunelveli District.
2. The Panchayat President,
Vadaku Kavalakurichi Panchayat,
V.K.Pudur Taluk,
Tirunelveli District.

: Petitioners / Petitioners/
Defendants 3&4

Vs.

1. Veliappa Pandian @ Muthupandian
2. Subbiah Pandian

: Respondents/Respondents/
Plaintiffs

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair order and decreetal order passed in I.A.No.822 of 2015 in O.S.No.480 of 2009 dated 11.01.2016 on the file of the Principal District Munsif Court, Tenkasi and allow the Civil Revision Petition.

For Petitioners : Mr.T.S.Mohamed Mohideen
For Respondents : Mr.T.Selvan

O R D E R

The respondents herein filed O.S.No.480 of 2009, before the Principal District Munsif Court, Tenkasi, seeking payment of damages. The said suit was decreed ex-parte. To set aside the same, the revision petitioners filed a petition under Order IX Rule 13 of CPC. But, there was delay of two years in filing the said set aside petition. The said application was returned. There was again delay of 718 days in re-representation also. The Court below, taking note of the lack of *bona fide* on the part of the revision petitioners, dismissed the petition for condoning the delay in re-representation. Questioning the same, this Civil Revision Petition has been filed.



3. The learned Counsel appearing for the respondents pointed out that there was delay not only in re-representation but also in filing the petition for setting aside the ex-parte decree also. He would also point out that the Panchayat has unfairly blamed the Counsel who had represented it.

4. This Court is of the view that since the interest of the local body is involved, an indulgent view has to be taken. It would be in the fitness of things to impose costs on the petitioner for granting relief. What is before this Court is only a petition seeking condonation of delay in re-representation. This Court is of the view that the parties can be permitted to contest the matter on merits. The suit is of the year 2009. It is the Panchayat which is squarely responsible for the long delay. As already pointed out by learned Counsel for the respondent, there was a delay of two years in even filing the petition for setting aside the ex-parte decree.

5. Therefore, this Court is of the view that not only the delay in re-representation but also the delay occasioned in filing the set aside petition can be condoned, but the ex-parte decree itself can be set aside. However, this cannot be an unconditional order. The revision petitioner shall pay a sum of Rs.10,000/- [Rupees Ten Thousand only] to the second respondent Subbiah Pandian. This sum shall be paid by the revision petitioner within a period of six [6] weeks from the date of receipt of a copy of this order. On fulfilment of this condition, I.A.No.822 of 2015 shall stand allowed and thereafter, the un-numbered Interlocutory Application filed for setting aside the ex-parte decree shall also be consequently allowed. The suit shall be formally restored to file. The revision petitioners have filed the written statement along with these applications. The same shall be taken on record and issues shall be framed speedily and the entire trial shall be concluded within a period of six [6] months thereafter.

6. With these directions, the Civil Revision Petition stands allowed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar (CS-II)



+1cc to Mr.T.S.Mohamed Mohideen, Advocate SR.No.78201

+1cc to Mr.T.Selvan, Advocate SR.No.77979

Mr

MK/RSK/SAR 2/31.08.2018/3P/4C

WEB COPY

ORDER MADE IN
C.R.P.PD[MD] No.212 of 2016
09.08.2018