



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED:28.08.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (MD) No.1862 of 2018 (NPD)

WEB COPY

Malaikkani

... Petitioner

Vs.

Pechiappan

... Respondent

PRAYER: Petition filed under Section 115 of CPC to set aside fair and decreetal passed in I.A.No.287 of 2012 in O.S.No.19 of 2007, dated 16.09.2017 by the Sub Court, Srivilliputhur in respect of the cost portion alone and impose a minimum cost to the petitioner as desired by this Court.

For Petitioner : Mrs.Lakshmi Gopinathan
for M/s.Polax Legal Solutions
For Respondent : Mr.M.Thirunavukarasu

ORDER

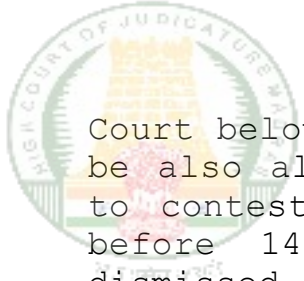
The revision petitioner herein is the first defendant in O.S.No.19 of 2007 on the file of the Sub Court, Srivilliputhur.

2.He suffered an exparte decree. To set aside the same, he filed an application. There was delay in filing the same. He filed I.A.No.287 of 2012 to condone the delay of 1622 days in filing the said application. The Court below condoned the same subject to the condition that the petitioner has to pay a sum of Rs.10,000/- to the respondent/plaintiff on or before 22.09.2017. The revision petitioner failed to deposit the same and therefore, the said I.A.No.287 of 2012 stood automatically dismissed.

3.As rightly pointed out by the learned counsel appearing for the respondent that the revision petitioner ought to have filed an application for extension of time before the Court below. He further contended that the Civil Revision Petition itself is not maintainable.

4.Though there is some considerable force in the submission made by the learned counsel for the respondent, this Court is of the view that in the interest of justice, the revision petitioner can be granted time till 14.09.2018.

5.The learned counsel for the revision petitioner undertakes that the revision petitioner would not ask for any further indulgence of this Court. If the cost is paid on or before 14.09.2018, the I.A.No.287 of 2012 would stand allowed. The



Court below shall number the set aside petition and the same shall be also allowed. The revision petitioner is given an opportunity to contest the suit on merits. If the cost is not paid on or before 14.09.2018, this civil revision petition would stand dismissed.

6. With the above observation, this civil revision petition is allowed. The revision petitioner shall extend his fullest cooperation for the speedy disposal of the suit. The revision petitioner should not plead old-age or any other circumstance as a ground to drag on the proceedings. Since the suit is of the year 2007, the Court below shall dispose of the same within a period of four months from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar (CS-II)

To

The Sub ordinate Judge,
Srivilliputhur.

+1cc to M/s. Polax Legal Solutions, Advocate SR.No.80569

+1cc to Mr. M. Thirunavukarasu, Advocate SR.No.80485

Rmi

MK/SKN/SAR 2/11.09.2018/2P/4C

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