



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.09.2018

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

C.R.P (MD) No.1912 of 2018

and

C.M.P (MD) No.8311 of 2018

K.Murugesan : Petitioner/Petitioner/Defendant

Vs.

R.Gunasekaran : Respondent/Respondent/
Plaintiff

PRAYER: Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure, to call for the records pertaining to the order dated 27.06.2018 made in I.A.No.400 of 2017 in O.S.No.60 of 2015 on the file of the Third Additional District Judge, Tiruchirapalli and set aside the same.

For Petitioner : Mr.T.Lajapathy Roy
For Respondent : Mr.R.Sundar Srinivasan

ORDER

This Civil Revision petition is directed against the dismissal of the application filed under Section 5 of Limitation Act application by the petitioner/defendant, seeking to condone the delay of 423 days in filing the petition to set aside the ex parte decree.

2.The reason stated by the petitioner to condone the delay is that the ex parte decree was passed on 11.03.2016. At that time, his mother was bedridden and taking treatment at A.C.S Hospital, Chennai. She was died on 22.10.2016. Thereafter, he fell sick due to jaundice and recovered after eight months and had filed the petition with the delay of 423 days.

3.The learned counsel for the respondent, who entered appearance as caveator, would submit that though the suit in O.S.No.60 of 2015 was decided ex parte, it is not a non-speaking order, but only after considering the merits of the case the trial Court has passed judgment on merits. Further, it is contented that the revision petitioner is a tresspasser. Two earlier suits filed by the parties, were dismissed. Knowing fully well about the merits of the case, the revision petitioner himself remind ex parte and to harass the respondent, the present petition has been



filed.

4. However, the learned counsel for the revision petitioner would submit that the second appeals between the parties are pending. In any event, as far as the revision petitioner is concerned, since the trial Court has rightly found that the delay of 423 days is not properly explained, this Court finds no reason to interfere with the order of the trial Court. Hence, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

SD

ASSISTANT REGISTRAR (CRL SIDE)

TRUE COPY

SUB ASSISTANT REGISTRAR (CS 1)

cp

To

The Third Additional District Judge,
Tiruchirapalli

1CC TO MR.R. SUNDARASRINIVASAN, ADVOCATE SR 83531

1CC TO MR.T. LAJAPATHI ROY, ADVOCATE SR 83769

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