

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.02.2019

CORAM :

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

C.R.P. (NPD) No.3263 of 2008 &
C.M.P.No.1 of 2008

Mr.Palanisamy

.. Petitioner

Vs.

Minor Saminathan
S/o.Palanisamy

Rep. By his mother, natural guardian next friend
Nallamuthu

.. Respondent

PRAYER: Civil Revision Petition filed under section 115 of Code of Civil Procedure against the Fair and Final Order passed in I.A.No.1237 of 2007 in O.S.No.160 of 2006 dated 05.02.2008 on the file of the District Munsif Court, Kangayam, Erode District.

For Petitioner : Mr.D.Krishnakumar

For Respondent : --

ORDER

This revision petition has been filed as against the Order of dismissal of the application filed to condone the delay of 234 days in filing an application to

set aside the exparte decree passed against the revision petitioner on 27.07.2006.

2. It is the contention of the learned counsel for the revision petitioner that summons were served on him in the suit and as the revision petitioner was suffering from jaundice, he could not enter appearance. Thereafter, he was set exparte and the exparte decree was passed on 27.07.2006. Thereafter also he could not appear as he was taking treatment for jaundice. Therefore, there is a delay of 234 days to file an application to set aside the exparte decree passed against the revision petitioner.

3. Heard the learned counsel for the revision petitioner and also perused the affidavit filed in support of the petition to condone the delay of 234 days in filing an application to set aside the exparte decree passed against the petitioner.

4. The suit itself has been filed claiming maintenance for the minor son of the revision petitioner and summons have been served on the revision petitioner. The contention of the revision petitioner that he was inflicted with jaundice has not been established before the trial Court. In fact, the exparte decree was passed on 27.07.2006 directing him to pay a meager amount of maintenance. Till today, no maintenance amount has been paid by the revision petitioner.

5. Of course, the word 'sufficient cause' has to be given liberal approach. But, at the same time, there must be valid and acceptable reasons adduced by the parties before the Court of Law. As a matter of right, the delay cannot be condoned on the ground of false allegations set up by the parties. Hence, this Court does not find any infirmity in the Order passed by the trial Court.

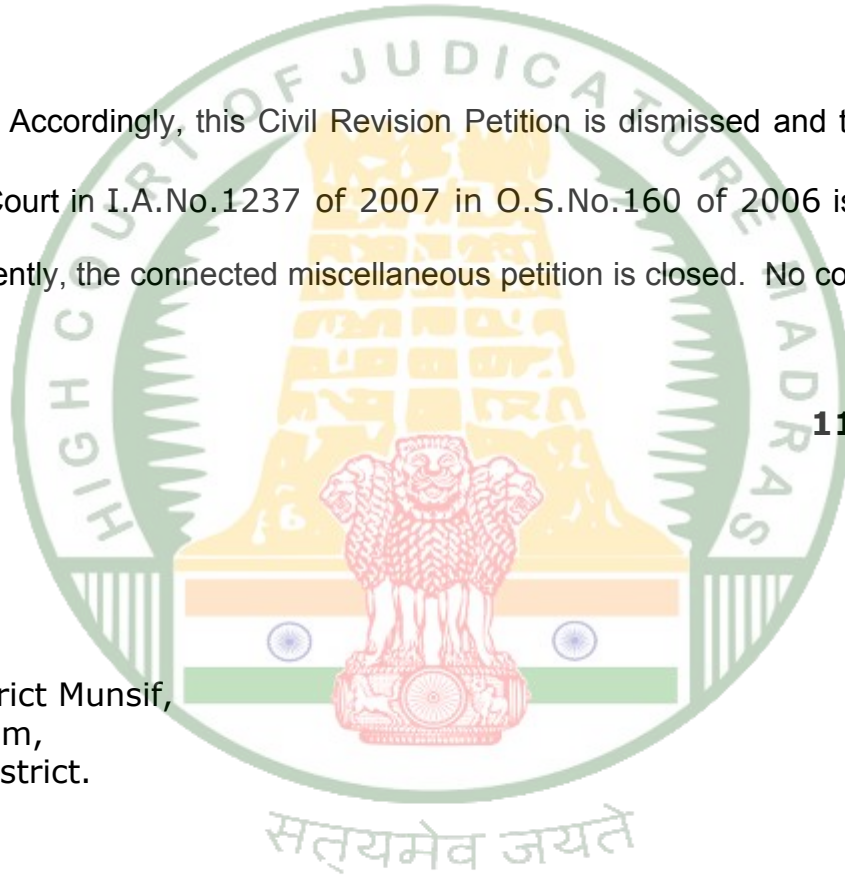
6. Accordingly, this Civil Revision Petition is dismissed and the Order of the trial Court in I.A.No.1237 of 2007 in O.S.No.160 of 2006 is confirmed. Consequently, the connected miscellaneous petition is closed. No cost.

11.02.2019

vrc

To

The District Munsif,
Kangayam,
Erode District.



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N.SATHISH KUMAR, J.

vrc



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