

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

TUESDAY, THE 19TH DAY OF NOVEMBER 2019

THE HON'BLE MR. JUSTICE K. KALYANASUNDARAM

A.No.8058 of 2019

in

C.S.No.212 of 2017

A.Azizul karim,
S/o.Abdul Malik,
No.111, More Street,
Chennai-600 001.

... Plaintiff

-Versus-

1. P.G.Sivagnanam,
adopted S/o.Late P.K.Gangadhara Mudaliar,
2. P.N.Venugopal,
S/o.late P.G.Narayanasamy Mudaliar,
3. P.N.Annamalai,
S/o.Late P.G.Narayanasamy Mudaliar,
4. P.G.Sundaramurthy,
S/o.Late P.G.Narayanasamy Mudaliar,
5. P.S.Gurugnathan,
S/o.P.G.Subramania Mudaliar,
6. P.S.Kirubakaran,
S/o.late P.G.Subramania Mudaliar,
7. P.S.Anandan,
S/o.P.G.Subramanian Mudaliar,
8. P.S.Padma,
D/o.Late P.G.Subramanian Mudaliar,
1 to 8 are residing at
No.4, Jaffer Syrang Street,
Mannady, Chennai-600 001.

... Defendants

A.No.8058 of 2019:

1. P.S.Kirubakaran,
S/o.late P.G.Subramania Mudaliar,
No.86, Nari Murugappa Madali Street,
Gudiyattam, Vellore District.

..1st Applicant/6th Defendant

2. P.S.ANANDAN
S/o.Late P.G.Subramania Mudhaliar,
No.34/32 TKM Nagar,
Pudhapettai Gudiyatham,
Vellore District

..2nd Applicant/7th Defendant

-vs-

A.AZIZUL KARIM
S/o.Abdul Malik, No.111,
More Street, Chennai 600 001. ..Respondent / Plaintiff

Application praying that this Hon'ble Court be pleased to Condone 386 days of delay in filing application to Set aside exparte Decree and Judgment dated 30/07/2018 made in C.S.No.212 of 2017 on the file of this Honble Court.

This application coming on this day before this court for hearing the court made the following order:

This application has been filed to condone the delay of 386 days in filing application to set aside ex-parte decree and judgment dated 30.07.2018 in the above suit.

2. The respondent / plaintiff filed a suit in C.S.No.212 of 2017 for specific performance of the sale agreement dated 02.06.2014 and the suit came to be decreed ex-parte on 30.07.2018. The defendants 6 and 7 in the above suit has come up with this application contending that the plaintiff was a tenant under the sixth defendant. In pursuance of the lease agreement, dated 15.12.2012, the plaintiff agreed to pay a monthly rent of Rs.20,000/-, but subsequently, he was irregular in payment of the rent. It is further stated that the sale agreement is a forged document, and as per the sale agreement, the defendants 1 to 8 had signed in the agreement dated 02.06.2014, but the 8th defendant died 20 years back and while the 5th defendant died in the year 2010. Though in the subsequent suit, the first respondent has given correct address, but in the present suit by giving wrong address, he obtained ex-parte decree.

3. Mr.B.Vijay, learned counsel for the applicants would urge that the addresses given in the plaint are the addresses of wine shop, in which the defendants are not residing. It is further stated that the respondent / plaintiff filed another suit before the City Civil Court in O.S.No.1385 of 2019 for permanent injunction and only from the pleadings in that suit, the applicants became aware of the ex-parte decree passed in the present suit. According to the learned counsel, the defendants are having valid defence and they should be given liberty to contest the case.

4. Despite providing sufficient opportunity, no counter has been filed so far. Today, the learned counsel for the respondent would submit that he needs further time to collect some materials.

5. However, considering the averments made in the affidavit filed in support of the application and the submissions of the learned counsel for the applicants, this Court is inclined to condone the delay. Accordingly, the delay is condoned.

Sd/.M.K.K.S.J.
19.11.2019

//Certified to be a true copy//
Dated this the day of 2019.

Su.21.11.2019

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.