

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.11.2019

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

C.R.P.No.3563 of 2019

K.Karthikeyan

... Petitioner/Plaintiff

-Vs-

B.Saravanan

... Respondent/Defendant

Prayer : Civil Revision Petition under Article 227 of the Constitution of India against the fair and decreetal order dated 26.07.2019 made in I.A.No.22 of 2019 in O.S.No.356 of 2014 on the file of the Court of the I Additional Subordinate Judge, Villupuram.

For Petitioner : Mr.T.Dhanasekaran

O R D E R

This revision has been filed against the fair and decreetal order passed in I.A.No.22 of 2019 in O.S.No.356 of 2014 on the file of the Court of the I Additional Subordinate Judge, Villupuram.

2. Before the trial Court, the revision petitioner was the plaintiff, who filed the suit for recovery of money against the respondent/defendant and in the said suit, the defendant was set exparte.

3. Thereafter, the defendant seems to have filed a petition to set aside the exparte decree and in filing the said application since there had been a delay, to condone the said delay, a petition under Section 5 of the Limitation Act also was filed and the same was allowed by the trial Court, of course on terms ie., payment of costs of Rs.1000/-. The said Rs.1000/- could not be paid by the respondent / defendant within the time stipulated by the trial Court. Therefore, for extension of time to pay the costs, I.A.No.22 of 2019 has been filed under Sections 148, 149 and 151 of C.P.C., and the said application has been allowed by the present impugned order, as against which the present revision has been filed.

4. Heard Mr.T.Dhanasekaran, learned counsel for the petitioner and have perused the materials placed on record.

5. The defendant, since had been set exparte, filed an application to set aside the same, where there is delay in filing the said petition, Section 5 of the Limitation Act was invoked and an application was filed, which was allowed on terms. However, as the defendant could not make the payment of costs within the stipulated time, an application was filed seeking extension of time and considering the facts and circumstances, the trial Court has extended the time through the impugned order.

6. If this petition was not allowed by the trial Court, the valuable right of the defendant to contest the suit would get defeated and therefore, considering the same, the trial Court, by exercising its power under Section 148, 149 and 151 of C.P.C., had given such extension. Therefore the said order, in the considered opinion of this Court, cannot be found fault with, as to meet the ends of justice, this kind of extensions would become necessary in the circumstances and considering the same only, the Courts would give such extension. This is one such case, where the trial Court has given such extension after considering the circumstances and therefore, the impugned order cannot be interfered with.

7. In that view of the matter, this Civil Revision Petition does not deserve to be considered and hence it is dismissed. No costs. However, since the suit is of the year 2014, the trial Court can bestow its attention to take up the suit and try the same as early as possible.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The Additional Subordinate Judge,
Villupuram

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