



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.02.2019

CORAM:

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

C.R.P. (MD) (NPD) .No.394 of 2019
and
C.M.P (MD) .No.1967 of 2019

S.Kannasamy :Petitioner/Petitioner/Defendant

Vs.

S.Chinnarasu :Respondent/Respondent/Plaintiff

PRAYER: The Civil Revision Petition has been filed under Section 115 of Code of Civil Procedure against the order passed by the learned Principal District Judge, Madurai in I.A.No.104 of 2018 in O.S.No.129 of 2015 dated 07.01.2019.

For Petitioner : Mr.G.Rajan

ORDER

The Civil Revision Petition has been preferred by the petitioner against the order passed by the learned Principal and District Judge, Madurai in I.A.No.104 of 2018 in O.S.No.129 of 2015 dated 07.01.2019.

2.I.A.No.104 of 2018 was filed by the petitioner/defendant to condone the delay of 699 days in preferring the petition to set aside the exparte decree passed on 16.02.2016. The said petition was heard by the trial Court and allowed the petition on payment of cost of Rs.1,500/- and the cost was also paid accordingly. Subsequently, the respondent/plaintiff in the said suit, filed a petition to set aside the order passed in the said I.A.No.104 of 2018 by stating that the reason stated by the petitioner/defendant is not a genuine one and the reason for abnormal delay of 699 days in filing the petition to condone the delay is not a fair and genuine one.

3.The respondent/plaintiff has filed a counter statement in I.A.No.104 of 2018 stating that the petitioner/defendant has received a notice on 11.06.2015 and he has not appeared before the trial Court when the case was posted for non appearance of the petitioner. The respondent/plaintiff further stated that the petitioner has not produced any proof to show that the delay was caused due to suffering from jaundice.



4. On perusal of oral and documentary evidence, the trial Court has given a finding that the case is posted for passing of final decree and in I.A.No.457 of 2017, notice was served to this petitioner and this petitioner after receiving the notice in the said final decree application, he has filed I.A.No.104 of 2018, after five months, he appeared before the trial Court in person through counsel. Hence, the reason stated by the petitioner that he was suffering from jaundice and due to that there was a delay of filing the petition to set aside the exparte decree is found to be a false one and dismissed the said interlocutory application. Aggrieved against the same, the petitioner before this Court.

5. It is seen that the reason stated by the petitioner for causing the delay of 699 days to set aside the exparte decree and that too after appearing in the final decree application, has not been considered by the trial Court. Therefore, there is no merit in the said petition and the petitioner has not stated any genuine reason to set aside the exparte decree.

6. In view of the above, this Court does not find any reason to interfere with the order passed by the trial Court. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-II)

/TRUE COPY/

Sub Assistant Registrar

To

The Principal District Judge
Madurai

+1. C.C. to M/S.G.RAJAN, Advocate SR.No. 50687

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and
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MSA
SP/05.04.2019/2P-3C