

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CRP (PD) No.2322 of 2018 and
CMP No.14432 of 2018

1. N.Manjula
2. Minor Maduvanthi
3. Minor Prithivi
(Minors represented by their
mother and next friend N.Manjula) ..Petitioners

M.Manoj Kumar Vs.
... Respondent

Prayer: The Civil Revision petition filed under Article 227 of Constitution of India, against the fair and final order dated 27.06.2018 passed in I.A.No.127 of 2017 in O.S.No.230 of 2016 on the file of the learned Subordinate Judge, Coonoor.

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For Petitioners : Mr.Kingston Jerold

For Respondent : Mr.A.R.Suresh

ORDER

The Revision is filed against the order allowing an application filed by the defendant under Order IX Rule 13 of the Code of Civil Procedure, seeking to set aside an exparte decree. The suit for maintenance filed by the respondent was decreed exparte on 24.09.2016.

2. Applications were filed seeking condonation of delay in filing an application to set aside the exparte decree and also to set aside the exparte decree. The delay was condoned.

3. It is stated that as against the order condoning the delay, a Revision was filed and the same also came to be dismissed by this Court. This Revision is filed against the order setting aside the exparte decree.

4. I have heard Mr.Kingston Jerold for petitioner and Mr.A.R.Suresh for the respondent.

5. Mr.A.R.Suresh, learned counsel appearing for respondent would submit that since the delay in seeking to set aside the exparte decree

dated 24.09.2016 has been condoned and the revision against the same was also dismissed by this Court the petitioner cannot claim to be aggrieved by the order setting aside the ex parte decree. Therefore, he prays for dismissal this Civil Revision petition.

6. I find that the trial court has excised its discretion in setting aside the ex parte decree. I do not find any illegality or material irregularity in the order of the trial court. As rightly pointed out by the learned counsel for the respondent the order condoning delay has also been confirmed by this court. Hence the Civil Revision petition fails and it is dismissed accordingly. No costs. Consequently, connected miscellaneous petition is closed.

vum

Index: Yes/No
Speaking order / Non speaking order

21.07.2020

R.SUBRAMANIAN, J.
vum

To:

1. The Subordinate Judge,
Coonoor
2. The Section Officer,
V.R. Section,
Madras High Court,
Chennai.



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