

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CRP (NPD) No.981 of 2018
and CMP No.5246 of 2018

S.Thangamani

... Petitioner

Vs

Mrs.J.M.Daisy Simporium

... Respondent

Prayer: The Civil Revision petition filed under Section 115 of the Code of Civil Procedure, 1908, against the fair and decreetal order, dated 07.10.2017 made in IA No.250 of 2017 in OS No.108 of 2015, on the file of the District Munsif Court, Nagapattinam.

For Petitioner :Mr.Ravichandran Sundaresan

For Respondent : No appearance

ORDER

This Revision is by the defendant in O.S.No.108 of 2015, against an order refusing to condone the delay of 433 days in seeking to set aside the exparte decree.

2. The suit in O.S.No.108 of 2015 was filed for recovery of a sum of Rs.96,150/- due and payable by the defendant under the written lease agreement dated 31.05.2010. The suit was decreed exparte on 16.09.2015. The defendant came up with the application to condone the delay of 433 days in seeking to set aside the exparte decree, claiming that he was not served with summons in the suit.

3. This application was resisted by the plaintiff contending that the defendant was set exparte only after proper service and therefore the claim made in the affidavit is false.

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4. The trial Court found from the records that the defendant's wife was served with notice of the suit on 04.05.2015. Upon such finding, the

learned trial Judge categorised the claim of the petitioner as false and dismissed the application for condonation of delay. Aggrieved, the petitioner has come up with this revision.

5. Though the revision was adjourned twice earlier, no one appears today. I had perused the papers.

6. I do not see any illegality or irregularity in the orders of the trial Court. No doubt, the Courts are expected to be liberal in matters of delay. But if the litigant attempts to project the false reason before the Court, the Court will not aid such litigants. It is seen from the order of the trial Court that notice in the suit was served on the wife of the defendant on 04.05.2015 and it is also stated that the wife of the defendant called him over phone and only thereafter received the suit summons. It is also not pleaded by the defendant that he and his wife are not in good terms or that his wife suppressed the service of summons on her. It is therefore clear that the defendant has come to Court with a false reason, seeking a discretionary order of condonation of delay. I do not find the defendant deserves any

indulgence from the Court. Hence, the Civil Revision petition fails and it is accordingly dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Index: Yes/No
Speaking order / Non speaking order

To

The District Munsif Court, Nagapattinam.



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