



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 30.09.2020

CORAM

THE HON'BLE MR.JUSTICE **S.S.SUNDAR**

C.R.P. (MD)No.719 of 2020

WEB COPY

R.S.Rangaraj : Petitioner/Respondent/Plaintiff

.. Vs ..

Alagammai : Respondent/Petitioner/Defendant

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the fair and decretal order dated 01.11.2019 made in I.A.No.96 of 2019 in O.S.No.40 of 2017 on the file of the Principal District Court, Pudukkottai and allow the above Civil Revision Petition.

For Petitioner : Mr.B.Jameel Arasu

ORDER

This Civil Revision Petition is directed against the order passed by the Principal District Court, Pudukkottai in I.A.No.96 of 2019 in O.S.No.40 of 2017.

2.Heard the learned Counsel appearing for the petitioner and perused the materials available on record.

3.The brief facts that are necessary for the disposal of this Civil Revision Petition are as follows:

3.1.The revision petitioner is the plaintiff in the suit in O.S.No.40 of 2017 on the file of the Principal District Court, Pudukkottai. The suit is for recovery of money on the basis of a promissory note against the respondent herein. The suit was listed for trial and the same was posted for appearance of the defendant on 17.04.2018. Since the respondent did not appear on 17.04.2018, an *ex parte* decree was passed on 10.09.2018. Thereafter, with the delay of 187 days a petition was filed to set aside the *ex parte* decree. The petition to condone the delay of 187 days in filing the petition to set aside the *ex parte* decree was allowed in I.A.No.96 of 2019 in O.S.No.40 of 2017. Challenging that, the above Civil Revision Petition is preferred by the plaintiff in the suit.



4.The reason for the delay, as per the affidavit filed in support of the petition, was that the defendant was taking continuous treatment in a hospital in Chennai and that therefore, she could not appear on the date when the matter was posted for hearing on 17.04.2018. The lower Court though found that the defendant did not produce any material to show that the defendant was physically ill, the trial Court was inclined to give an opportunity to the defendant to contest the suit on merits. Therefore, the petition was allowed on payment of a sum of Rs.2,000/- (Rupees Two Thousand only) as cost payable to the revision petitioner. The learned Counsel appearing for the petitioner submitted that the respondent has no case to defend the suit on merits and that therefore, no opportunity can be given to her. Having regard to the fact that the delay is only 187 days and that the lower Court has allowed the application on terms after considering the facts, this Court is unable to find any error or irregularity in the order of the lower Court. When the trial Court was of the view that the delay can be condoned and an opportunity should be given to the defendant to contest the suit on merits, this Court has no compelling reason to interfere with the order of the lower Court. Accordingly, this Civil Revision Petition is dismissed. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

SRM

To

The Principal District Judge,
Pudukkottai.

Order made in
C.R.P. (MD)No.719 of 2020

30.09.2020

SSS (CO)

NR (03/11/2020) 2P : 2C