

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.02.2021

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

C.R.P.(NPD) No.2299 of 2015
and M.P.No.1 of 2015

1. Eswaran
2. A.Pattappan

... Petitioners

Vs.

N.Rajan

... Respondent

Prayer :- Civil Revision Petition is filed under Section 115 of C.P.C., to set aside the fair and decreetal order dated 25.11.2014 in I.A.No.905 of 2013 in O.S.No.119 of 2008 on the file of the District Munsif Court at Tirupur.

For Petitioners : Mr.S.Sithirai Anandam

For Respondent : Mr.Sabarish

For Mr.S.K.Rakunathan

ORDER

This Civil Revision Petition has been filed as against the fair and decreetal order dated 25.11.2014 passed by the learned District Munsif, Tirupur, in I.A.No.905 of 2013 in O.S.No.119 of 2008, thereby dismissing

the petition to condone the delay of 176 days in filing the petition to set aside the exparte decree dated 08.11.2012.

2. The petitioners are the defendants in the suit filed by the respondent for declaration and consequential injunction. The petitioners had engaged counsel and also filed written statement on 13.08.2008 itself. Thereafter, the counsel who engaged on behalf of the petitioners did not appear before the trial Court as such, the petitioners were set exparte on 08.11.2012. Thereafter the petitioners came to under that the counsel who engaged by them, appeared in O.S.No.14 of 2009 on the file of the Sub Court, Tirupur, which is filed as against the first petitioner herein. Therefore, the counsel engaged by them failed to appear before the trial Court and wantonly set them exparte in the suit. Thereafter they received bundle from the said counsel and engaged another counsel and filed this petition to set aside the exparte order. Therefore, there was a delay of 176 days in filing the petition to set aside the exparte decree and the delay is not willful or wanton.

3. Considering the above facts and circumstances, the petitioners may be given one more opportunity to defend their case. Accordingly, the order dated 25.11.2014 passed by the learned District Munsif, Tirupur, in I.A.No.905 of 2013 in O.S.No.119 of 2008, is hereby set aside, with cost of Rs.5,000/- (Rupees five thousand only) payable by the petitioners jointly to the respondent herein, within a period of two weeks from the date of receipt of copy of this Order, failing which the order shall automatically stands cancelled.

4. With the above directions, this Civil Revision Petition stands allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

19.02.2021

Internet : Yes

Index : Yes/No

Speaking order/Non-speaking order

rts

G.K.ILANTHIRAIYAN, J.

rts

To

1. The District Munsif,
Tirupur,
2. The Section Officer,
V.R. Section,
Madras High Court,
Chennai.



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and M.P.No.1 of 2015

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