

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.04.2021

Coram

The Hon'ble Mr. Justice **C.V.KARTHIKEYAN**

C.R.P. (NPD) No.804 of 2021

and

C.M.P.No.6706 of 2021

G.Suresh Kumar .. Petitioner/Defendant/Petitioner

Vs

C.Pushparani .. Respondent/Respondent/Plaintiff

Civil Revision Petition filed under Article 115 of Code of Civil Procedure to set aside the order in Civil Revision Petition in I.A.No.1 of 2019 in O.S.No.376 of 2017 dated 29.09.2020 on the file of the Additional Sub Ordinate Judge, Vellore District.

For Petitioner .. Mr.K.V.Sanjeevkumar

For Respondent .. No Appearance

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**ORDER**

This Revision Petition has been filed questioning the order dated 29.09.2020 passed in I.A.No.1 of 2019 by the learned Additional Subordinate Judge, Vellore in O.S.No.376 of 2017.

2.The said Interlocutory Application was filed by the defendant who is the petitioner before this Court. It had been filed under Section 5 of the Limitation Act, to condone the delay of 332 days in filing application under Order IX Rule 13 of CPC to set aside the exparte decree dated 23.10.2018.

3.Heard the learned counsel for the petitioner.

4.The suit had been filed for eviction of the present petitioner. The petitioner had been served with suit summons. He had also filed his written statement. Naturally there was an obligation on his part to participate in trial. However, for reasons best known to him, he had taken a conscious decision to abstain from participating in the trial proceedings. Owing to his absence, he was set exparte and thereafter on recording evidence, an exparte decree was also passed.

5.The petitioner still did not take any steps to question the exparte decree. It is again to be mentioned that he was well aware of the judicial proceeding, in view of the fact that he had filed the written statement. It is also to be noted that the petitioner is also residing in the very same area in Vellore.

6.Thereafter, the respondent/plaintiff had filed E.P.No.178 of 2019. Notice was directed. It was only then the petitioner woke up and claiming ignorance of the proceedings, has sought indulgence of the Court. Such indulgence has been refused by the learned Additional Sub Ordinate Judge.

7.It is to be noted that the petitioner herein had not placed any reliable evidence to establish the averments made in the affidavit filed by him. He did not come forward to substantiate the averments by letting in oral evidence. He had not explained the delay. He had not given any bonafide reason for the delay. The learned Additional Subordinate Judge, therefore thought it appropriate that the delay cannot be condoned and therefore, dismissed the said petition.

8.I find no reasons to interfere with the said order. Cogent reasons had been given, particularly that the petitioner herein had not taken the opportunity to enter the witness box and state the reasons for non appearance and be tested during cross-examination. As a matter of fact, the petitioner had not given any valid reasons at all. He had only stated that he was not aware of the proceedings, though that is not be true owing to the fact that he had filed his written statement.

9.In view of the above reasonings, this Civil Revision Petition is dismissed. No order as to costs. Consequently, the connected Civil Miscellaneous Petition is closed.

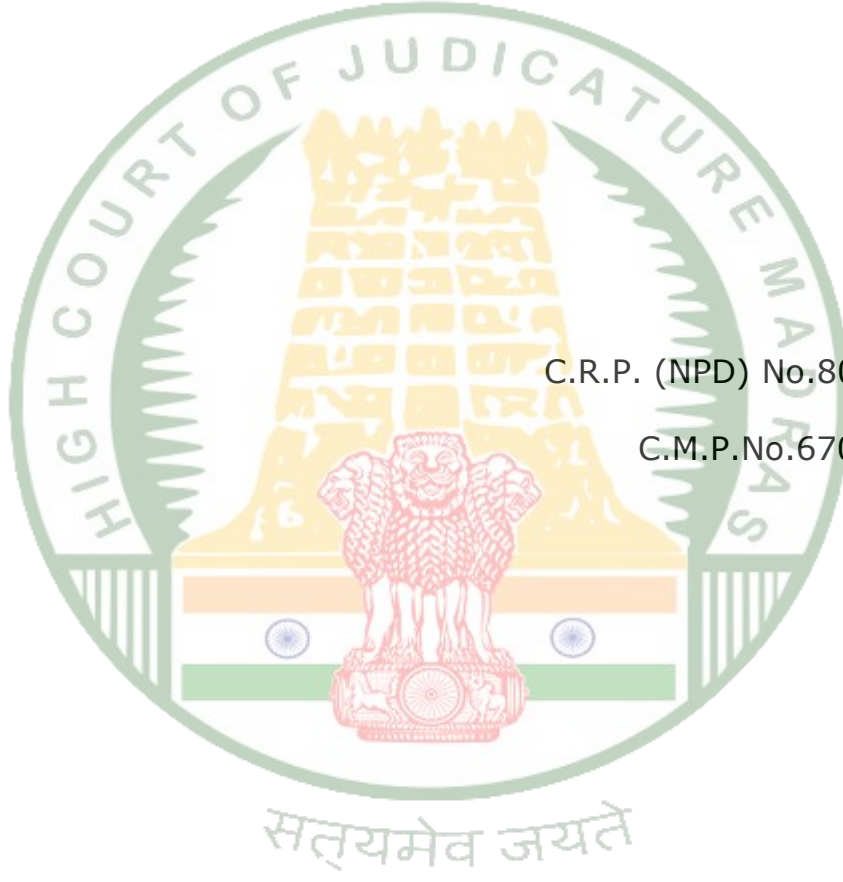
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08.04.2021

To  
The Additional Sub Court,  
Vellore.

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**C.V.KARTHIKEYAN,J.**



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