

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2021

CORAM

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

CRP.NPD.No. 3548 of 2016

and

CMP.No.18039 of 2016

Maniammal ... Petitioners

Vs.

Bhuvaneswari ... Respondent

PRAYER: The Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure, praying to set aside the fair and decretal order dated 03.02.2016 passed in I.A.No.461 of 2013 in O.S.No.18 of 2007 on the file of the learned Subordinate Judge, Bhavani and allow this Civil Revision Petition.

For Petitioners : M/s.J.Pruthivi

For Respondent : M/s.Zeenath Begum

ORDER

This Civil Revision Petition is directed as against the fair and decretal order passed in I.A.No.461 of 2013 in O.S.No.18 of 2007 dated 03.02.2016 on the file of the learned Subordinate Judge, Bhavani, thereby, dismissing the petition to condone the delay of 1,392 days in filing the application to

set aside the ex-parte decree.

2. The petitioner is the defendant in the suit filed by the respondent herein for permanent injunction, in respect of the suit property. After filing the written statement, the petitioner failed to appear before the Trial Court and as such, he was set ex-parte and the ex-parte decree was passed on 03.11.2008. Thereafter, she came to understand that the ex-parte decree was passed in the suit filed by the respondent and filed the application to set aside the ex-parte decree with the delay of 1,392 days. She was examined as P.W.1, in which she categorically admitted that after passing the ex-parte decree in the suit filed by the respondent, on the complaint lodged by the respondent, she appeared on nine occasions before the concerned jurisdictional police and also she had given undertaking that she will not interfere with the peaceful possession and enjoyment of the suit property by the respondent herein.

3. She also categorically admitted that immediately after 15 days from the date of ex-parte decree, she met her counsel and her counsel advised that he will take care of the case. Therefore, she had knowledge about the ex-

parte decree passed in the suit. That apart, she did not state any sufficient reasons for inordinate delay of 1329 days. Therefore, the Court below rightly dismissed the petition filed by the petitioner. As such, this Court finds no irregularity or infirmity in the order passed by the Court below.

4. Accordingly, this Civil Revision Petition is dismissed. Consequently, the connected Miscellaneous Petition is closed. No costs.

12.02.2021

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

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To

The Subordinate Judge, Bhavani.



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G.K.ILANTHIRAIYAN,J.

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