

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.04.2021

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

C.R.P.(PD).No.2437 of 2018
and C.M.P.No.14961 of 2018

1.D.Naveen Prabhu
2.R.Dhayanithi

.... Petitioners

Vs

1.Dhanam
2.M.Madhaiyan
3.P.Raman
4.Murugan @ Palaniappan

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, against the Fair order and decree dated 16.07.2018 made in I.A.No.856 of 2017 in O.S.No.123 of 2016 on the file of the Principal District Munsif, Salem.

For Petitioners : Mr.G.Arul Murugan

For Respondents : No Appearance

ORDER

This Civil Revision Petition is filed against a Fair and decreetal dated 16.07.2018 made in I.A.No.856 of 2017 in O.S.No.123 of 2016 on the file of the Principal District Munsif, Salem, thereby allowing the petition to condone the delay in filing a petition to set aside the ex parte decree.

2. The petitioners are the plaintiffs and the respondents are the defendants. The petitioners filed a suit for permanent injunction as against the respondents in respect of suit property. On receipt of the suit summons, the respondents failed to appear before the trial Court and as such, they were set ex parte and the ex parte Judgment and Decree was passed on 14.08.2016. Thereafter, the respondents filed a petition to set aside the ex parte decree with a delay of 244 days.

3. On perusal of the affidavit filed in support of the condone delay petition, it is revealed that they were set ex parte for non filing of written statement. Though the engaged counsel to appear on behalf of them before the trial Court, the counsel did not properly inform about the filing of

written statement and as such, they were set exparte. Immediately, after came to the knowledge of the exparte decree, they filed the petition to set aside the ex parte decree.

4. Therefore, the Court below rightly allowed the petition to condone the delay in filing the petition to set aside the ex parte decree and the respondents have been granted one more opportunity to defend the suit on merits in accordance with law. Therefore, this Court finds no infirmity and illegality in the orders passed by the Court below.

5. Accordingly, this Civil Revision Petition is dismissed. However, since the suit is of the year 2016, the trial Court is directed to dispose of the suit within a period of *twelve months* from the date of receipt of a copy of this order. No order as to costs. Consequently, the connected miscellaneous petition is closed.

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30.04.2021

Internet: Yes
Index: Yes/No
Speaking/Non speaking order
rna

G.K.ILANTHIRAIYAN. J,

rna

To

The Principal District Munsif,
Salem.



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