

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2021

CORAM

THE HON'BLE Ms. JUSTICE R.N.MANJULA

C.R.P.(NPD).No.859 of 2016

N. Seshajalam

... Petitioner/Defendant

Vs.

R. Purushothaman

... Respondents/Plaintiff

Prayer: This Civil Revision Petition is filed under Section 115 of Civil Procedural Code challenging the order and decretal order in I.A.No.139 of 2013 in O.S.39 of 2004 on the file of the Principal District Munsif Court, Vellore dated 05.12.2015.

For Petitioner : Mr. S. Babu

For Respondent : Mr. T.R. Sathiyamohan

ORDER

(Heard through video conferencing)

This civil revision petition has been filed against the order passed in I.A.No.139 of 2013 in O.S.39 of 2004 on the file of the Principal District Munsif Court, Vellore dated 05.12.2015.

2. The Revision petitioner who is the defendant in the said suit has filed this petition to condone the delay of 2334 days in filing the petition to set aside the Ex-parte Decree dated 16.04.2007.

3. The learned counsel for the petitioner submitted that in the matters of this nature, a liberal approach has to be taken and the matter cannot be viewed as rigidly. She further requested that in support of her contention she would produce a Judgment, if further time is granted.

4. The learned counsel for the respondent has submitted that the very petition filed to condone the delay in filing the petition to set aside the ex-parte order itself is not maintainable for the reason that the Revision petitioner has already filed a petition in I.A.No.325 of 2008 for the same relief and that the said order was allowed on condition that the petitioner has to pay a sum of Rs.200/- towards cost. The petitioner has not complied the said condition and due to non-compliance of the said condition the petition was dismissed on 09.06.2010. These facts were not disclosed in the present petition. Had it been disclosed this petition would not have been taken on file itself. The petition has been taken on file only due to the said suppression of the said fact. After taking

the petition on file, the learned Trial Court has correctly taken note of these facts and appreciated the same in accordance with law.

5. It is true that some leniency should be shown in considering the petition to condone the delay. But at the same time, the parties cannot be allowed to abuse the process of Court. In this case, the petitioner has not stated about the relief already granted to her for setting aside the ex-parte decree.

6. Since she has not complied the condition, the said petition was dismissed. Neither she has chosen to challenge the same or file a petition to get extension of time for the payment of cost before its dismissal. In such circumstances the citation if any, the learned counsel for the petitioner intended to produce is going to be of no use and the leniency which is required to be shown is not applicable to the facts of this petition.

In the result, this Revision petition is dismissed. No costs.

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21.04.2021

Speaking/Non-speaking

Index : Yes/No

Internet : Yes/No

smn

R.N.MANJULA,J.

Smn

To

- 1.The Principal District Munsif Court, Vellore
- 2.The Section Officer,
V.R.Section,
High Court, Madras.



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