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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.10.2021

CORAM :

THE HON'BLE MR.JUSTICE G.CHANDRASEKHARAN

C.R.P.No.2215 of 2021

V.Meena

... Petitioner/2nd Defendant

Vs

1.R.Jagadambal @ R.Jagada

2.M.Arunkumar

3.M.Gayathri

...Respondents 1 to 3/Plaintiffs

4.The Director of Recruiting Officer,
Fort Saint George,
Chennai - 600009.

...4th Respondent/1st
Defendant

PRAYER : Civil Revision Petition filed under Section 115 of the Civil Procedure Code praying to set aside the fair and decreetal order dated 16.03.2021 made in I.A.No.1 of 2020 in O.S.No.52 of 2017 on the file of the District Munsif Court, Thiruvottiyur and allow this CRP with costs.

For Petitioner : Ms.Shanmuga Priya for
Mr.P.Babu Janardhan.

For Respondent : No Appearance

O R D E R

This Petition is filed challenging the order passed in I.A.No.1 of 2020 in O.S.No.2 of 2017 on the file of the District Munsif, Thiruvottiyur.

2.I.A.No.1 of 2020 was filed under Section 5 of the Limitation Act and under Section 151 of Civil Procedure Code to condone the delay of 562 days in filing the Petition to set aside the exparte decree passed in O.S.No.52 of 2017 on 21.03.2018. It is seen from the affidavit filed in support of



this Petition that summons was sent to the native address of the Petitioner. The Petitioner was residing at her uncle's house in Chennai and therefore, summons was not served on the Petitioner. Because of non service of summons, the Petitioner cannot appear before the Court on 21.03.2018 and she has been set exparte for non-appearance.

3.It is also submitted that the Petitioner was suffering from long illness and was taking bed rest and not able to contact the Advocate. Therefore, there is a delay in filing the Petition to set aside the exparte decree. This Petition was contested by the Respondents. On considering the rival submissions, the Learned District Munsif, Thiruvottiyur dismissed the Petition. Challenging the said dismissal order, this Civil Revision Petition is filed.

4.Considered the submissions of the Learned Counsel for the Petitioner and perused the records.

5.Reading of the order of the Learned District Munsif, Thiruvottiyur shows that the Petitioner has produced Ex.P.1 to Ex.P.3 documents to show that she was not well and taking treatment. However, it was found from the discharge summary filed by the Petitioner that the Petitioner was taking treatment as inpatient from 02.06.2017 to 27.06.2017, whereas the exparte decree was passed against the Petitioner only on 21.03.2018. Therefore, the Learned District Munsif, Thiruvottiyur found that the reason stated by the Petitioner that the Petitioner was not well and therefore, there was a delay in filing the Petition to condone the delay in filing the Petition to set aside the exparte decree cannot be accepted.

6.That apart, the Learned District Munsif, Thiruvottiyur verified the summons served on the Petitioner and found that the Petitioner refused to receive the summons. She was set exparte after recording the fact that she refused to receive summons. It is also found from the medical records that the Petitioner's permanent address is Sivaganga District. Therefore, the claim of the Petitioner that she was not residing in Sivaganga and residing with her uncle in Chennai was also not correct.

7.Perusal of the affidavit shows that there is no information provided as to how the Petitioner came to know about the exparte decree passed against her and when did she come to know about that. It was also referred in the order. As rightly found by the Learned District Munsif, Thiruvottiyur that the Petitioner has not properly explained the reason for delay in filing the Petition to set aside the exparte decree. Therefore, this Court finds no reason to interfere with the order of the Learned District Munsif, Thiruvottiyur passed in I.A.No.1 of



2020. Hence, the order of the Learned District Munsif, Thiruvottiyur is confirmed.

8.Resultantly, this Civil Revision Petition is dismissed.
No costs.

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Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

ay/jai

To

The District Munsif Court,
Thiruvottiyur.

+1cc to Mr.P.Babu Janardhan, Advocate, S.R.No.53740

C.R.P.No.2215 of 2021

SJ(CO)
CB(02/11/2021)