

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2021

CORAM

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

C.R.P.(NPD).No.969 of 2016
and C.M.P.No.5439 of 2016

1.K.Rajalakshmi

2.P.Sridharan

... Petitioners/Defendants

Vs.

1.P.Lakshmi

2.P.Karthik

3.P.Vanishree

... Respondents/Plaintiffs

PRAYER: The Civil Revision Petition filed under Section 115 CPC against the fair and decreetal Order dated 26.02.2016 passed in I.A.No.14 of 2016 in O.S.No.118 of 2013, on the file of the I Additional District Judge, Tiruvallur.

For Petitioners : Mr.A.H.Srikanth

For Respondents : No appearance

ORDER

(Heard through video conferencing)

This Civil Revision Petition has been filed to set aside the fair and decreetal Order dated 26.02.2016 passed in I.A.No.14 of 2016 in O.S.No.118 of 2013, on the file of the I Additional District Judge, Tiruvallur.

2. The defendants are the petitioners herein.

3. I.A.No.14 of 2016 has been filed to condone the delay of 57 days in filing the petition to set aside the *exparte* Decree. The learned Trial Court has dismissed the petition by observing that the conduct of the petitioners/defendants was just to drag the proceedings. The learned Trial Judge has recorded that the defendants have been remaining absent for consecutive hearings and they were set *exparte* on 07.10.2013. Subsequently, the defendants filed a petition to set aside the *exparte* Order and it was allowed and opportunity was given to them to file statements by posting the matter on 29.11.2013. But the defendants remained absent on 29.11.2013 and also on 28.02.2014 to which date the case was adjourned once more. Hence, they were set *exparte* on 28.02.2014 also. *Exparte* evidence was taken on 06.03.2014 and the *exparte* Order was passed on 27.03.2014. On 10.11.2014, the defendants filed a petition to condone the delay of 198 days to reopen the suit and the same was also allowed on 13.02.2015 and the suit was reopened. When the matter was posted thereafter for cross examination of P.W.1, the defendants failed to appear and hence, the *exparte* Decree was passed on 03.09.2015. Now the defendants have filed a petition to condone the delay of 57 days in filing the petition to set aside the *exparte* Decree.

4. The conduct of the petitioners as recorded by the learned Trial Court and

how it is shown through records would show that the petitioners were not cooperative for the proceedings and they were causing delay in each step and finally they allowed the Court to pass *exparte* Decree. Though the Courts need to show indulgence and take a liberal view in allowing the petition to condone the delay in filing the petition to set aside the *exparte* Orders, that should not embolden the parties whose intention is just to drag the proceedings and harass the other side.

5. The conduct of the defendants in protracting the proceedings would show that they did not respect the opportunities given to them and continued to drag the proceedings by one way or other. These kind of litigants cannot be allowed to get the advantage of liberal view, otherwise shown in these type of petitions. In view of these reasons, I find no factual or legal infirmity in the Order of the learned Trial Judge and it does not warrant any interference.

Accordingly, this Civil Revision Petition is dismissed. No costs. Connected miscellaneous petition is closed.

14.06.2021

Index : Yes/No

Sni

R.N.MANJULA,J.

Sni

To

1.I Additional District Judge,
Tiruvallur.

2.The Section Officer,
V.R.Section,
High Court, Madras.



C.R.P.(NPD).No.969 of 2016

WEB COPY

14.06.2021