

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.07.2021

CORAM

THE HON'BLE Mr. JUSTICE G.K.ILANTHIRAIYAN

C.R.P.(NPD) No. 638 of 2018

R.Govindarajulu

Petitioner

Vs

1. V.Senthil Kumar

2. Ravi

3. Eswaramoorthy

4. P.Ramasamy

5. P.Chandran

6. P.Krishnamoorthy

Respondents

Prayer :- Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 09.09.2016 made in I.A.No108 of 2016 in O.S.No.398 of 2011 on the file of the District Munsif Court, Salem.

For Petitioner : Mr.M.Aruk Kumar
for K.S.Karthik Raja

For R1 to R3 : No appearance

For R4 to R6 : Mr.P.Jagadeesan

ORDER

This Civil Revision Petition is filed against the fair and decreetal order dated 09.09.2016 made in I.A.No108 of 2016 in O.S.No.398 of

2011 on the file of the District Munsif Court, Salem, thereby dismissing the petition to condone the delay in filing the petition to set aside the ex-parte decree.

2. The petitioner is the second defendant and the respondents 4 to 6 are the plaintiffs. The respondents 1 to 3 herein are the defendants 4 to 6. The respondents 4 to 6 filed a suit in O.S.No.398 of 2011 for declaration. The petitioner and the respondents 1 to 3 herein filed their written statement and thereafter failed to appear before the Trial Court. Therefore, they were set ex-parte and ex-parte decree was passed on 26.08.2014. Thereafter, the petitioner and the respondents 1 to 3 herein filed a petition in I.A.No.108 of 2016 to set aside the ex-parte decree with a delay of 537 days.

3. On perusal of the affidavit filed in support of the condone delay petition revealed that the petitioner herein suffered with Jaundice and the other respondents 1 to 3 herein were went to Kerala to look after their real estate business. Therefore, they could not be appeared before

the Trial Court and they were set ex-parte. The petitioner alone suffered with Jaundice and other defendants i.e., respondents 1 to 3 herein went to Kerala to do their real estate business. To substantiate the same, no evidence has been produced by the petitioner before the Court below. Therefore, they failed to state sufficient cause for the delay of 537 days. That apart, after dismissal of the condone delay petition, the petitioner alone preferred the Civil Revision Petition and the respondents 1 to 3 did not prefer any Civil Revision Petition.

4. In view of the above, this Court finds no infirmity or illegality in the order passed by the Court below. Accordingly, the Civil Revision Petition stands dismissed. No costs.

28.07.2021

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Index: Yes/No

Internet: Yes/No

Speaking Order: Yes/No

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G.K.ILANTHIRAIYAN.J,

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To

1. The VI Additional Judge,
City Civil Court,
Chennai.
2. The VIII Assistant Judge,
City Civil Court,
Chennai.



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