

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.03.2021

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

C.R.P.(N.P.D).No.67 of 2017
and C.M.P.No.374 of 2017

Azhagesan @ Kandasamy

...Petitioner

Vs

1.Krishnan
2.Tamilarasu
3.Perumal

...Respondents

Prayer: Civil Revision Petition filed under Section 115 of Code of Civil Procedure to set aside the order and decree passed in I.A.No.240 of 2014 in O.S.No.146 of 2012 dated 07.04.2016 on the file of Additional District Munsif Court, Tiruchengode.

For Petitioner : Mr.SP.Yuvaraj
For R1 : M/s.Mohanapriya
for Mr.E.P.Senniyangiri
For R2 & R3 : Mr.C.Paraneedharan

ORDER

This Civil Revision Petition is filed against the order and decree passed in I.A.No.240 of 2014 in O.S.No.146 of 2012 dated 07.04.2016 on the file of Additional District Munsif Court, Tiruchengode, dismissing the

petition to condone the delay in filing the petition to set aside the exparte decree.

2. The petitioner is the third defendant in the suit filed by the first respondent herein for declaration and injunction in respect of the suit property. The petitioner and other two defendants are the representatives of the entire body of inhabitants of Arunthathiar Street, Kosavampalayam, Kumaramangalam, Tiruchengode Taluk, Namakkal District. After receipt of the summons, the petitioner and other two defendants engaged their counsel. Thereafter, the counsel died and the same was not informed to the petitioner and other two defendants. Therefore, they have failed to file the written statement and they were not appeared before the Court below.

3. On a perusal of the affidavit filed in support of the petition reveals that the counsel who appeared on behalf of the petitioner namely Mr.Sridhar died on 26.03.2013. Therefore, the petitioner was not able to file the written statement and was not able to appear before the Court below.

4. Considering the above, the order passed by the trial Court in I.A.No.240 of 2014 in O.S.No.146 of 2012 dated 07.04.2016 on the file of Additional District Munsif Court, Tiruchencode, is set aside. The Civil Revision Petition is allowed, on condition that the petitioner shall pay a sum of Rs.5,000/- to the first respondent within a period of two weeks from the date of receipt of copy of this order, failing which the order shall stand automatically cancelled. No costs. Consequently, connected Miscellaneous Petition is closed.

29.03.2021

Index: Yes/No
Internet: Yes/No
Speaking Order: Yes/No

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To
The Additional District Munsif Court,
Tiruchengode.

G.K.ILANTHIRAIYAN , J.



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