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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.06.2021

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THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.R.P.No.4112 of 2019

N.Jeyaraj ... Petitioner/Defendant  
Vs.

K.Palanisamy ... Respondent /Plaintiff

Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure to set aside the Fair and Decreetal order dated 24.09.2019 made in I.A.No.81 of 2019 against O.S.No.159 of 2013 on the file of Sub Court, Udumalpet.

For Petitioner : Mr.D.R.Arun Kumar

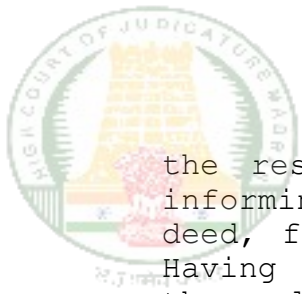
For Respondent : Mr.R.Shase for  
Mr.M.Guruprasad

O R D E R

The present Civil Revision Petition has been filed against the fair and final order made in I.A.No.81 of 2019 dated 24.09.2019, by which order, the Sub Court, Udumalpet had dismissed the Section 5 petition filed by the present Revision Petitioner.

2. On perusing the records, it is seen that O.S.No.159 of 2013 has been filed by the respondent / plaintiff seeking a decree of specific performance directing the revision petitioner herein to execute the sale deed in favour of the respondent / plaintiff after receiving the balance of Rs.50,000/- towards the sale of the suit schedule property therein, in alternative, to pay Rs.3,00,000/- with 12% interest.

3. The case of the respondent / plaintiff therein, is that the Revision Petitioner has agreed to sell the suit schedule property for Rs.3,50,000/- and executed a sale agreement dated 26.08.2011 on receipt of Rs.3,00,000/- and the remaining Rs.50,000/- to be paid at the time of execution of sale deed agreement within two years. However, despite the reason that the plaintiff was ready and willing to pay the remaining Rs.50,000/-, the revision petitioner had denied the execution of the sale deed in favour of the respondent herein, which forced



the respondent /plaintiff to issue a notice dated 23.08.2013 informing the petitioner herein to come and execute the sale deed, failing which, to return Rs.3,00,000/- with 12% interest. Having the revision petitioner not turned up for execution of the sale deed, neither returned the money, the respondent / plaintiff filed O.S.No.159 of 2013.

4. The Revision Petitioner / defendant entered appearance and filed his written statement denying the allegation that he had entered into a sale agreement with the respondent / plaintiff. The Revision Petitioner / defendant also contended in the written statement that by no stretch of imagination, the property is worth Rs.3,50,000/-, as the guideline value according to the Government Registration Department itself, the property is worth Rs.17,00,000/- and in the open market value, the property is worth more than Rs.50,00,000/- and there was no necessity for the petitioner / defendant to execute any sale agreement in favour of the respondent / plaintiff. However, the petitioner / defendant also stated in the written statement that during the year 2011, the petitioner/defendant's son, who had completed 12<sup>th</sup> standard and wanted to pursue higher studies, for which, Rs.2,00,000/- was required and he approached the plaintiff, who offered the said Rs.2,00,000/- as loan and the petitioner / defendant had handed over the copy of the title deed of the suit schedule property. However, the plaintiff had misused the same despite the reason that the plaintiff / defendant was paying the interest towards the loan without fail and the petitioner / defendant is ready and willing to return the said Rs.2,00,000/- and denied any execution of receipt of Rs.3,00,000/- towards the sale of suit schedule property.

5. The petitioner / defendant after having filed his written statement on 14.03.2014, did not appear before the court and the Sub Court, Udumalpet, by Judgment and Decree dated 10.09.2014 decreed the suit exparte. Thereafter, the respondent / plaintiff seems to have filed E.P.No.6 of 2015 in O.S.No.159 of 2013 to execute the decree. Pending E.P. Proceedings, the petitioner / defendant had taken out I.A.No.81 of 2019 to condone the delay of 1419 days in filing the petition to set aside the exparte decree dated 10.09.2014 that came to be dismissed by fair and final order dated 24.09.2019 by the Sub Court, Udumalpet, as against which, the present Revision Petition is being filed.

6. The learned counsel for the petitioner would contend that the Sub Court, Udumalpet ought to have considered that there was no sale agreement between the petitioner and the respondent herein and without appreciating the serious complication suffered by the petitioner and bonafide reason for non-appearance of the petitioner, the trial court has simply



dismissed the application mechanically by citing some precedent, which are no way related to the circumstances of the case.

7. The learned counsel for the petitioner to substantiate his contention, has relied on the following Judgments:-

(i) In the Judgment of Hon'ble Supreme Court in 2019 (6) CTC 344 [Robin Thapa Vs. Rohit Dora], wherein at Paragraph No.13, it is held as follows:-

"13. The matter arises from a suit for specific performance. It may be true that there is a case for the respondent that the appellant has actually let out the building on rent. The appellant's case is that this is the Appellant's Residential house and the matter is a loan transaction. Specific relief is undoubtedly a discretionary relief. Appellant has submitted that the appellant is prepared to deposit the entire amount spent by the respondent towards is prepared to deposit the entire amount spent by the respondent towards getting sale deed executed. We would think that the interest of justice demands that subject to putting the appellant on terms, an opportunity should be given to the appellant to contest the case and the case must be directed to be disposed of within the time limit. Accordingly, we allow the appeal and set aside the impugned order subject to the following conditions:

a) The appellant will deposit a sum of Rs.67,400 (57, 400 towards stamp duty paid by the respondent + '10,000 towards Registration expenses, etc.,) within a period of one month from today in the execution court.

(b) The Appellant will further deposit a sum of '50,000 as costs to be paid to the respondents. This amount will also be deposited in the execution court within a period of one month from today. Upon depositing the aforesaid amounts, it will be open to the respondent to withdraw the same and the sale deed will stand set aside. The respondent can also withdraw the amount of '92,000 deposited by him towards balance sale consideration. In case the amounts as aforesaid are not deposited within the stipulated period, the Appeal will stand dismissed and the impugned order will stand confirmed.

(c) We further direct that if the Appellant complies with the conditions as aforesaid, the trial court will take up the suit and dispose of the same as expeditiously as possible but at any rate within a period of six months from the date on which the respondent brings the fulfilment of the aforesaid conditions to the notice of the Trial Court."



(ii) In the Judgment of Hon'ble Supreme Court reported in AIR 1999 SCC 3381 [Balraj Taneja and another Vs. Sunil Madan and another] wherein at paragraph Nos.39 and 40, it is held as follows:-

"39. Unfortunately, the High Court did not consider this fact and proceeded almost blindly to pass a decree in favour of the plaintiff merely because written statement had not been filed in the case. Learned single judge, who passed the decree, did not consider any fact other than the conduct of the defendants in seeking adjournments of the case for purposes of filing written statement. So also, the Division bench did not consider any fact other than the fact that the defendants had been trying to prolong the proceedings by seeking adjournments, and that too, by changing their counsel. The Division Bench also took into consideration the fact that the appeal filed by the defendants against the decree passed by the single judge was beyond time which again indicated their negligence. No other fact was taken into consideration and the decree passed by the single judge was affirmed.

40. There is yet another infirmity in the case which relates to the 'Judgment' passed by the single Judge and upheld by the Division Bench."

(iii) In the Judgment of this Court in 2020 (6) CTC 843 [Ramachandran and others Vs. Balakrishnan and others] wherein at Paragraph No.13, it is held as follows:-

"13. It is fundamental principal of law that an order passed in a Section 5 Application is not an appealable order but a revisable order. Therefore, the very appeal before the learned Principal District Judge was not maintainable. Unfortunately, both the learned Principal District Judge and the counsel for the respondents overlooked the fact that what was decided by the Trial Court was an application under Section 5 of Limitation Act, though it has been stated that it is an Application under Order 9, Rule 13 of the Code of Civil Procedure in the fair order of the Trial Court. If I am to reject this Revision on the ground that the appeal before the appellate court itself was not maintainable, it will cause severe prejudice to the petitioners as the mistake was that of the Court and not the petitioners. Since this revision has been filed under Article 227 of the Constitution of India, I treat this Revision as one filed against the order of the trial court made in I.A.No.39 of 2013 and proceed to dispose it on merits."

(iv) In the Judgment of this Court in CRP (NPD) No.4287 of



"10. Insofar as Or.9 is concerned, it deals with the consequences of appearance and non-appearance of the parties. In case of non appearance of plaintiff or defendant as the case may be, it will result in an order of dismissal for default or ex-parte order and consequential decree. In such proceedings, either of the parties shall show sufficient cause for their non-appearance be it illness, non-communication, bonafide, lack of knowledge, non-service of summons, want of sufficient time to appear, lack of transport and other incidents not within the control of the party. If the reason stated is sufficient and satisfactory for non-appearance, the ex-parte order can be set aside against all or some of the parties with or without conditions.

(v) The learned counsel for the petitioner has cited the entire judgment of this Court in CRP(NPD) MD nos.1303 of 2012 & 871 of 2013 and M.P.(MD) No.1 of 2012 [R.Stella Vs. Antony Francis].

(i) In the Judgment of High Court of Andhrapradesh reported in 2019 SCC Online AP 6 : [Govindu Vidyulatha Vs. Movva Suri Babu] at Paragraph Nos.9 to 11, it is held as follows:-

<https://hcservices.ecourts.gov.in/hcservices/>



"The increasing tendency to perceive delay as a non-serious matter and, hence, lackadaisical propensity can be exhibited in a nonchalant manner requires to be curbed, of course, within legal parameters"

10. In addition to this, learned counsel for the respondent also relied on B.Madhuri Goud Vs. B. Damodar Reddy (2012) 12 SCC 693 and argued that in similar circumstances when an appeal was filed after an exparte decree was passed and no satisfactory explanation is given, the delay cannot be condoned.

11. This Court also notices the increasing tendency to draft affidavits in a casual manner. When issues of fraud, malice and improper behaviour are stated as the reason or the cause for the delay, there should be clarity in the affidavit. Details of the alleged fraud / improper advise, details of the persons who are responsible for the same etc., should be pleaded with clarity. Since matters of this nature are decided mostly on affidavits, there is an absolute need for clarity in the affidavit. Simply, saying that the petitioner met with some relatives, who misguided her is not sufficient. Facts with sufficient details need to be stated on oath so that the truth can be ascertained. Condonation of delay cannot be taken for granted. The note of caution sounded by the Hon'ble Supreme Court that an application for condonation of delay should be drafted with careful concern cannot be over emphasized. The tendency to treat condonation of delay in a casual manner is a practice that needs to be curbed."

(ii) In the Judgment of Hon'ble Supreme Court reported in [2003] 6 SCC 659 [Shiv Shakti Coop. Housing Society, Nagpur Vs. Swaraj Developers and Others], it is held in Paragraph Nos.14 to 17 as follows:-

"14. Section 115 is essentially a source of power for the High Court to supervise the subordinate courts. It does not in any way confer a right on a litigant aggrieved by any order of the subordinate court to approach the High Court for relief. The scope for making a revision under Section 115 is not linked with a substantive right.

15. Language of Sections 96 and 100 of the Code which deal with appeals can be compared with Section 115 of the Code. While in the former two provisions specifically provide for right of appeal, the same is not the position vis--vis section 115. It does not speak of an application being made by a person aggrieved by an order of subordinate court. As noted above, it is a source of power of the High Court to



have effective control on the functioning of the subordinate courts by exercising supervisory power.

16. An appeal is essentially continuation of the original proceedings and the provisions applied at the time of institution of the suit are to be operative even in respect of the appeals. That is because there is a vested right in the litigant to avail the remedy of an appeal. As was observed in *K. Eapen Chako v. The Provident Investment Company (P) Ltd.* (AIR 1976 SC 2610) only in cases where vested rights are involved, a legislation has to be interpreted to mean as one affecting such right to be prospectively operative. The right of appeal is only by statute. It is necessary part of the procedure in an action, but "the right of entering a superior court and invoking its aid and interposition to redress the error of the courts below. It seems to this paramount right, part of the progress of the inferior tribunal." (Per Westbury See: *AG vs. SILLEM* 33 J.Ex 209). The appeal, strictly so called, is one in which the question is, whether the order of the Court from which the appeal is brought was right on the materials which that Court had before it" (Per Lord Devuill Ponnammal vs. *Arumogam* 1905 AC 390). The right of appeal, where it exists, as a matter of substance and not of procedure (*Colonial Sugar Refining Company vs. Irtin* 1905 AC

368).

17. Right of appeal is statutory. Right of appeal inherits in no one. When conferred by statute it becomes a vested right. In this regard there is essential distinction between right of appeal and right of suit. Where there is inherent right in every person to file a suit and for its maintainability it requires no authority of law, appeal requires so. As was observed in *The State of Kerala vs. K.M. Charia Abdulla and Co.* (AIR 1965 SC 1585), the distinction between right of appeal and revision is based on differences implicit in the two expressions. An appeal is continuation of the proceedings; in effect the entire proceedings are before the appellate authority and it has power to review the evidence subject to statutory limitations prescribed. But in the case of revision, whatever powers the revisional authority may or may not have, it has no power to review the evidence, unless the statute expressly confers on it that power. It was noted by the four-Judges Bench in *Hari Shankar and others vs. Rao Girdhari Lal Chowdhury* (AIR 1963 SC 698) that the distinction between an appeal and a revision is a real one. A right of appeal carries with it a



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right of re-hearing on law as well as fact, unless the statute conferring the right of appeal limits the re-hearing in some way, as has been done in second appeals arising under the Code. The power of hearing revision is generally given to a superior Court so that it may satisfy itself that a particular case has been decided according to law. Reference was made to Section 115 of the Code to hold that the High Court's powers under the said provision are limited to certain particular categories of cases. The right there is confined to jurisdiction and jurisdiction alone."

(iii) In the Judgment of Hon'ble Supreme Court reported in [2019] 15 SCC 33 [Baljeet Singh (Dead) Through Legal Representatives and others Vs. State of Uttar Pradesh and Others] wherein at Paragraph No.7, it is held as follows:-

"7. The matter requires examination from another aspect, viz., laches and delay. It is a very recognised principle of jurisprudence that a right not exercised for a long time is nonexistent. Even when there is no limitation period prescribed by any statute relating to certain proceedings, in such cases, courts have coined the doctrine of laches and delay as well as doctrine of acquiescence and non-suited the litigants who approached the court belatedly without any justifiable explanation for bringing the action after unreasonable delay. In those cases, where the period of limitation is prescribed within which the action is to be brought before the court, if the action is not brought within that prescribed period, the aggrieved party loses remedy and cannot enforce his legal right after the period of limitation is over, however, subject to the prayer for condonation of delay and if there is a justifiable explanation for bringing the action after the prescribed period of limitation is over and sufficient cause is shown, the court may condone the delay. Therefore, in a case where the period of limitation is prescribed and the action is not brought within the period of limitation and subsequently proceedings are initiated after the period of limitation along with the prayer for condonation of delay, in that case, the applicant has to make out a sufficient cause and justify the cause for delay with a proper explanation. It is not that in each and every case despite the sufficient cause is not shown and the delay is not properly explained, the court may condone the delay. To make out a case for condonation of delay, the applicant has to make out a sufficient cause/reason which prevented him in initiating the proceedings within the period of limitation. Otherwise, he will be



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accused of gross negligence. If the aggrieved party does not initiate the proceedings within the period of limitation without any sufficient cause, he can be denied the relief on the ground of unexplained laches and delay and on the presumption that such person has waived his right or acquiesced with the order. These principles are based on the principles relatable to sound public policy that if a person does not exercise his right for a long time then such right is non-existent."

(iv) In the Judgment of Hon'ble Supreme Court reported in (2013) 12 Supreme Court Cases 649 [Esha Bhattacharjee Vs. Managing Committee of Raghunathpur Nafar Academy and others] at Paragraph Nos.17 and 18, it is held as follows:-

"17. A reference to the principle stated in Balwant Singh v. Hagdish Singh<sup>18</sup> would be quite fruitful. In the said case the Court referred to the pronouncements in Union of India v. Ram Charan<sup>19</sup>, P.K. Ramachandran v. State of Kerala <sup>20</sup> and Katari Suryanarayana v. Koppiseti Subba Rao<sup>21</sup> and stated thus: ( Bakwant Singh case<sup>18</sup>, SCC p. 696, paras 25-26)

"25. We may state that even if the term 'sufficient cause' has to receive liberal construction, it must squarely fall within the concept of reasonable time and proper conduct of the party concerned. The purpose of introducing liberal construction normally is to introduce the concept of 'reasonableness' as it is understood in its general connotation.

26. The law of limitation is a substantive law and has definite consequences on the right and obligation of a party to arise (sic a lis). These principles should be adhered to and applied appropriately depending on the facts and circumstances of a given case. Once a valuable right has accrued in favour of one party as a result of the failure of the other party to explain the delay by showing sufficient cause and its own conduct, it will be unreasonable to take away that right on the mere asking of the applicant, particularly when the delay is directly a result of negligence, default or inaction of that party. Justice must be done to both parties equally. Then alone the ends of justice can be achieved. If a party has been thoroughly negligent in implementing its rights and remedies, it will be equally unfair to deprive the other party of a valuable right that has accrued to it in law as a result of his acting vigilantly."

18. Recently in Maniben Devraj Shah v. Municipal Corpn. Of Brihan mumbai <sup>22</sup>, the learned Judges referred to the pronouncement in Vedabai v. shantaram



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Baburao Petil<sup>23</sup> wherein it has been opined that a distinction must be made between a case where the delay is inordinate and a case where the delay is of few days and whereas in the former case the consideration of prejudice to the other side will be a relevant factor, in the latter case no such consideration arises. Thereafter, the two-Judge bench ruled thus: (Maniben Devraj shah case<sup>22</sup>, SCC pp. 168-69, paras 23-24.

"23. What needs to be emphasised is that even though a liberal and justice-oriented approach is required to be adopted in the exercise of power under Section 5 of the Limitation Act and other similar statutes, the courts can neither become oblivious of the fact that the successful litigant has acquired certain rights on the basis of the judgment under challenge and a lot of time is consumed at various stages of litigation apart from the cost.

24. What colour the expression 'sufficient cause' would get in the factual matrix of a given case would largely depend on bona fide nature of the explanation. If the court finds that there has been no negligence on the part of the applicant and the cause shown for the delay does not lack bona fides, then it may condone the delay. If, on the other hand, the explanation given by the applicant is found to be concocted or he is thoroughly negligent in prosecuting his cause, then it would be a legitimate exercise of discretion not to condone the delay".

(v) In the Judgment of Hon'ble Supreme Court reported in (2014) 11 Supreme Court Cases 351 [Brijesh Kumar and Others Vs. State of Haryana and Others] wherein at Paragraph Nos.8 and 10, it is held as follows:-

"8. In P.K. Ramachandran v. State of Kerala & Anr., AIR 1998 SC 2276, the Apex Court while considering a case of condonation of delay of 565 days, wherein no explanation much less a reasonable or satisfactory explanation for condonation of delay had been given, held as under:-

"6. Law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes and the courts have no power to extend the period of limitation on equitable grounds"

10. The courts should not adopt an injustice-oriented approach in rejecting the application for condonation of delay. However the court while allowing such application has to draw a distinction between delay and inordinate delay for want of bona fides of an



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inaction or negligence would deprive a party of the protection of Section 5 of the Limitation Act, 1963. Sufficient cause is a condition precedent for exercise of discretion by the Court for condoning the delay. This Court has time and again held that when mandatory provision is not complied with and that delay is not properly, satisfactorily and convincingly explained, the court cannot condone the delay on sympathetic grounds alone."

9. Heard the learned counsel appearing on either side and perused the documents placed on record.

10. Both the learned counsel have relied on various judgments, which this Court is not inclined to refer the same, as those judgments are in no way connected to the circumstances of the present case. The High Court in various Judgments has directed the Subordinate Courts that while dealing with petition under Section 5 of Limitation Act to take a lenient view depending upon the circumstances of the case. It is seen from the records that the petitioner / defendant had filed a written statement as early as 14.03.2014. However, thereafter, he has not appeared before the Court and was set exparte and exparte Judgment and decree was passed on 10.09.2014. It is only in the year 2018, i.e., on 02.10.2018, the petition to condone the delay to set aside the exparte decree dated 10.09.2014 was filed.

11. At this juncture, it would be pertinent to refer to the reasons stated in the affidavit filed in support of the petition seeking condonation of the delay.

"3. இந்நிலையில் எனக்கு உடல்நலக்குறைவு ஏற்பட்டு நீண்ட நெடுங்காலமாக படுத்த படுக்கையாக இருந்து சிகிச்சை பெற்று வந்ததால், உடல்வாய்தா தேதியான 10.09.2014ம் தேதியில் நான் நீதிமன்றத்தில் ஆஜராகி என் எதிர்வாதத்தை தாக்கல் செய்ய முடியாமல் இருந்து விட்டேன். எனக்கு திடீரென மஞ்சள் காமாலை நோய் வந்து, கேரளாவில் உள்ள ஒரு நாட்டு வைத்தியரிடம் 2,3 மாதங்கள் கேரளாவில் தங்கி, நாட்டு வைத்தியம் பார்த்து வந்தேன். அதன் பின்னிட்டு வீட்டிற்கு வந்த நான் பாத்ரூமில் வழக்கி விட்டு கீழே விழுந்து என் இடது காலில் எலும்பு, முறிவடைந்து விட்டது. அதற்காக நான் பொள்ளாச்சி வட்டம் ரேபடியாளையத்தில் உள்ள பிரசித்தி பெற்ற எலும்பு, நாட்டு வைத்தியரிடம் சென்று எண்ணெய் கட்டு போட்டு அங்கேயே 2 மாதங்கள் தங்கி வைத்தியம் பார்த்து வந்தேன். அதன் பின்னிட்டு வைத்தியரின் அறிவுரைப்படி என் கால் எலும்பு, கூடவதற்காக ஓய்வெடுக்கும் படி கூறியதால், நான் வெளியில் எங்கும் செல்ல முடியாமல் ஓய்வெடுத்து வந்தேன். அதன் பின்னிட்டு சில நாட்களில் எனக்கு வைரல் காய்ச்சல் வந்து படுத்த படுக்கையாக வீட்டில் இருந்து விட்டேன். ஆகவே என்னால் உரிய காலத்தில் நீதிமன்றத்தில் ஆஜராகி எதிர்வாதம் தாக்கல் செய்ய முடியாத நிலையில் இருந்து விட்டேன்."



12. On the plain reading of the above statement, it is clear that it is not a proper drafting, as such, the reasons to condone the delay should be explained properly. Mere cinematic descriptions, as reasons for not appearing before the Court, may not be sufficient for the court to interfere while condoning the delay. The delay should be explained in a proper manner, as such, the duty is cast upon the litigants to contact their counsel for each and every hearing, for the litigants it is their own case and for the counsel, it is one of the cases they handle in the court. Under such circumstances, it is for the litigants to contact their counsel to know the status of the case.

13. As far as the present case is concerned, this Court is not convinced with the reasons stated in the petition, as initially stated that it is poor drafting by the counsel in the trial court and the reasons are not believable too. In this aspect, the Sub Court, Udumalpet has come to the conclusion that the reasons adduced by the petitioner / defendant is not sufficient and not sufficiently proved to set aside the exparte decree. However, it would be pertinent to refer to the pleadings made in the written statement. As far as the valuation taken by the petitioner / defendant herein with regard to the suit schedule property and the circumstances, [i.e., for his son's education had borrowed Rs. 2,00,000/- from the respondent / plaintiff] under which the defendant, had handed over the documents to the respondent / plaintiff and the petitioner / defendant is ready and willing to pay Rs.2,00,000/- with interest. These facts certainly need to be proved before the trial court, at the same time when the plaintiff pleads that Rs.3,50,000/- was fixed as sale consideration for the entire suit schedule property and he has paid Rs.3,00,000/- to the petitioner / defendant as advance, it is unimaginable that for the respondent / plaintiff to pay the remaining Rs.50,000/- in a span of two years, these pleadings certainly creates an iota of doubt in the manner in which the transaction has taken place between the plaintiff and the defendant. Moreover, the suit is for specific performance, which is filed with an alternative prayer for reimbursing the sale consideration along with interest in lieu of execution of sale deed. When that being the circumstance, though the trial court has held that the petitioner / defendant has not placed any sufficient material or made any sufficient reasons for the delay caused in setting aside the exparte decree, the trial court should also emphatically seen the situation and the circumstances pleading in the plaint as well as the written statement, as the suit cannot go beyond the pleadings. No doubt the reason adduced by the petitioner / defendant is not sufficient, the entire pleadings also need to be considered. Poor drafting of statements in the affidavit filed in support



of the condonation delay petition cannot be placed against the parties, as the parties may not be aware of the consequences of a poor drafting done by the counsel.

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14. Under these circumstances this Court is of the view that the petitioner / defendant should be given an opportunity to contest the case. However, with caveat that the petitioner / defendant shall pay a cost of Rs.50,000/-. The petitioner is directed to pay a sum of Rs.25,000/- to the respondent / plaintiff and the remaining Rs.25,000/- towards Tamil Nadu COVID Relief Fund within a period of four weeks from the date of receipt of copy of this order.

15. In view of the above, the present Civil Revision Petition is allowed by setting aside the fair and final order dated 24.09.2019 made in I.A.No.81 of 2019. Accordingly, the I.A.No.81 of 2019 seeking to condone the delay of 1490 days in setting aside the exparte order dated 10.09.2014 in O.S.No.159 of 2013 is also allowed and O.S.No.159 of 2013 is restored to file. The trial court is directed to conduct the trial after issuing notice to either parties and proceed with the case in O.S.No.159 of 2013 uninfluenced with any of the observations made by this Court in this order. No costs.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Ssd

Sub Assistant Registrar

To

1.The Sub Court, Udumalpet

Copy To

The Secretary,  
Home Department,  
Secretariat, Chennai-9.

(for accepting the payment of costs towards COVID Relief Fund )

+lcc to Mr.M.Guruprasad, Advocate, S.R.No. 28854

+lcc to Mr.D.R.Arun Kumar, Advocate, S.R.No. 28746

C.R.P.No.4112 of 2019

SV I(CO)

GN(10/08/2021)