

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.06.2021

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CRP.NPD.No.4034 of 2018

and

C.M.P.No.22317 of 2018

P.Saravanan

... Petitioner

Vs.

Chinnapaiyan @ Ettigan

... Respondent

PRAYER: The Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure, to set aside the fair and decretal order dated 27.08.2018 made in I.A.No.677 of 2017 in O.S.No.443 of 2012 on the file of the learned Principal District Munsif, Namakkal by allowing this Civil Revision Petition.

For Petitioner : Mr.N.Manokaran

For Respondent : Mr.S.Kalyanaraman

ORDER

This Civil Revision Petition is directed as against the fair and decretal order passed in I.A.No.677 of 2017 in O.S.No.443 of 2012 dated 27.08.2018 on the file of the learned Principal District Munsif, Namakkal, thereby allowing the petition to condone the delay of 114 days in filing the

petition to set aside the ex-parte decree.

2. The petitioner is the plaintiff and the respondent is the sixth defendant in the suit. The petitioner filed a suit for declaration and injunction in respect of the suit property. According to the petitioner, the first defendant, viz., his grand mother executed a settlement in respect of the suit property in favour of the petitioner by the settlement deed dated 14.03.2012. Subsequently, on 21.05.2012, the first defendant unilaterally cancelled the settlement deed dated 14.03.2012. Therefore, challenging the said cancellation of settlement deed, the petitioner/plaintiff filed a suit in O.S.No.443 of 2012. After receipt of the summons, the defendants entered appearance through his counsel. When the suit was posted for written statement, they failed to file any written statement and as such, all the defendants were set ex-parte. In the meanwhile, sole defendant viz., the first defendant died and other legal heirs were impleaded as parties to the suit. Even then, they did not file any written statement and as such, they were also called absent and set ex-parte. Therefore, the respondent herein filed a petition to set aside the ex-parte decree with a delay of 114 days. In view of the reasons stated in the affidavit accompanying the petition to condone the delay, the Court below allowed the same by giving opportunity to the

respondent to meet the ends of justice. Therefore, this Court finds no infirmity or illegality in the order passed by the Court below.

3. Accordingly, this Civil Revision Petition is dismissed. However, the respondent is directed to pay sum of Rs.5,000/- as costs to the petitioner within a period of two weeks from the date of receipt of a copy of this order and file his written statement on or before 28.06.2021, failing which the condone delay petition I.A.No.677 of 2017 in O.S.No.443 of 2012 dated 27.08.2018 shall stand automatically cancelled. Thereafter, the Court below is directed to dispose of the suit within a period of six months. Consequently, the connected Miscellaneous Petition is closed. No costs.

15.06.2021

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

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G.K.ILANTHIRAIYAN,J.

Kv

To

1. The Principal District Munsif, Namakkal.
2. The Section Officer,
V.R.Section, High Court of Madras.



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