



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.01.2021

CORAM

THE HON'BLE MRS.JUSTICE J.NISHA BANU

C.R.P(MD)No.1314 of 2019

and

C.M.P(MD).No.7154 of 2019

Palanichamy

... Petitioner / Petitioner/
Defendant

Vs.

Karthikeyan

.... Respondent/ Respondent/
Plaintiff

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the Fair and Decreetal order dated 10.10.2018, passed in I.A.No.297 of 2018 in O.S.No.30 of 2008 on the file of the District Munsif cum Judicial Magistrate Court, Thiruppathur, and allow the present Civil Revision Petition.

For Petitioner : Mr.N.Rahamadullah

O R D E R

This Civil Revision Petition is filed to set aside the Fair and Decreetal order dated 10.10.2018, passed in I.A.No.297 of 2018 in O.S.No.30 of 2008, on the file of the District Munsif cum Judicial Magistrate Court, Thiruppathur.

2. The revision petitioner is the defendant and the respondent is the plaintiff in the suit in O.S.No.30 of 2008.

3. The case in brief is that the respondent/plaintiff has filed a suit in O.S.No.30 of 2008, on the file of the District Munsif cum Judicial Magistrate Court, Thiruppathur, against the petitioner/defendant seeking the relief of permanent injunction to restrain the defendant from interfering, encroaching and from any other activity disturbing the peaceful possession and enjoyment of the suit schedule property; and for costs. On 15.02.2017, the petitioner herein was called absent and exparte decree was passed. The revision petitioner filed I.A.No.297 of 2018 to condone the delay of 297 days to set aside the exparte judgment and decree dated 15.02.2017, stating that the petitioner was suffering from jaundice



and hence, he could not able to attend the Court. The Court below declined to condone the delay, against which, this revision is filed.

4. Heard the learned Counsel for the petitioner and perused the materials placed before this Court.

5. Perusal of record shows that there was an inordinate delay of 297 days in filing the petition to set aside the exparte order. The reason adduced by the petitioner is that he was suffering from jaundice and except this reason, no other reason was adduced to justify the above huge delay. It appears, on a plain reading of the impugned order that the revision petitioner was given sufficient opportunity to produce witnesses, however, he has failed to do the same. The revision petitioner has dragged the case for about ten years and filing of this revision petition is only for the purpose of protracting the case. Hence, the order of the trial Court does not warrant any interference from this Court.

6. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The District Munsif cum Judicial Magistrate,
Thiruppathur.

C.R.P (MD)No.1314 of 2019

11.01.2021

MJ (CO)

NR (02/02/2021) 2P : 2C

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