



WEB COPY

CRP(MD)No.1455 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 08.07.2021

PRONOUNCED ON : 19.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

CRP(MD)No.1455 of 2014

MP(MD)No.1 of 2014

(Through Video Conferencing)

1.S.Prabha

2.S.Priya

3.S.Shenbagam

S.Marudhaiveeran

Petitioners

Vs

1.Tata Tele Services, by its Senior Manager, Chennai-96

2. Tata Telecom Service Limited, by its Manager

Madurai

Respondents

Prayer:- This Civil Revision Petition has been filed, against the fair and decreetal order, dated 16.08.2013 passed in IA.No.330 of 2012 in OS.No.51 of 2009, by the Subordinate Judge, Kulithalai.

For Petitioners : Mr.H.Lakshmi Shankar

For Respondents : No Appearance

ORDER

- 1.This Civil Revision Petition has been filed, against the fair and decreetal order, dated 16.08.2013 passed in IA.No.330 of 2012 in OS.No.51 of 2009, by the Subordinate Judge, Kulithalai.
- 2.The facts of the case, in a nutshell, are that the Plaintiffs are the Petitioners and the Defendants are the Respondents. The suit was filed for recovery of money and an exparte decree was passed on 03.03.2010. The Defendants had filed the above application, to condone the delay of 841 days in filing the application to set aside the exparte decree. Since the said application was allowed by the impugned order, this Civil Revision Petition has been filed.
- 3.The learned counsel for the Petitioners has submitted that when the delay for each and every day has not been satisfactory explained, the court below is not justified in condoning the inordinate delay of 841 days, without assigning any reason and that the application has been filed only to drag on the proceedings and hence, the impugned order is liable to be set aside.
- 4.The learned counsel for the Respondents has submitted that due to shifting of their office, the papers had been misplaced and hence, the delay had occurred, which is neither willful nor wanton and that they have a good case on merits and hence, the impugned order



5.This court heard the learned counsel for the Petitioner side and considered his submissions and also carefully perused the materials placed on record. There is no representation for the Respondents.

6.The suit was filed for recovery of money and an exparte decree was passed. The Defendants had filed the present application, to condone the delay of 841 days, in filing the application to set aside the said exparte decree. The reasons assigned by the Defendants for condoning the delay are that due to shifting of their office at Chennai, which alone was looking after the court cases in the State and also due to transfer of several Officers, the case papers had been misplaced and could not be traced out and follow up measures were not taken in time and hence, the delay had occurred, which is neither willful nor wanton and now, they are ready to conduct the case. This Court is of the view that the said reasons appear to be just and reasonable. The court below, accepting the said reasons, had condoned the delay on payment of cost of Rs.1000/-, by the impugned order, which does not suffer from any infirmity or illegality. However, in so far as the cost of Rs.1,000/- imposed by the court below is concerned, it is enhanced to Rs.2000/-.

7.In fine, this Civil Revision Petition is dismissed. No costs. Consequently, the connected MP is closed.

Sd/-

Assistant Registrar (P&A)

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/ /2021

Sub Assistant Registrar(CS)

Srcm

To

1.The Subordinate Judge, Kulithalai

+1 CC to M/s.H.LAKSHMISHANKAR, Advocate (SR-23067[F] dated 19/07/2021)

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RK (30.07.2021) 2P 3C