



C.R.P.No.3292 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.No.3292 of 2022
and
C.M.P.No.17484 of 2022

Karthikeyan

... Petitioner

VS

Kumaran

... Respondent

Prayer: Civil Revision Petition is filed under Section 115 of Civil Procedure Code, praying to set aside the order dated 17.12.2021 made in I.A.No.742 of 2019 in O.S.No.85 of 2017 on the file of the Sub-Court, Dharapuram.

For Petitioner : Mr.V.Balamurugan

ORDER

The Civil Revision Petition is filed challenging the order passed by the Court below dismissing the petition to condone the delay of 705 days in filing the petition to set aside the *exparte* decree dated 07.09.2017.



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2. The respondent herein filed a suit for specific performance against the petitioner in O.S.No.85 of 2017 on the file of the Sub Court, Dharapuram. The *exparte* decree was passed against the revision petitioner on 07.09.2017. Subsequently, the petitioner filed a petition to set aside the *exparte* decree during September-2019. In the affidavit filed in support of the petition to condone the delay of 705 days, the petitioner averred that he had not received any summons in the suit and the fact of *exparte* decree came to his knowledge only after receipt of notice in execution petition.

3. The Court below after verifying the court records found that the petitioner was personally served by the Court on 27.03.2017. Therefore, the averment made in the petitioner's affidavit appears to be a false statement. The revision petitioner at the time of filing the petition to set aside the *exparte* decree not even filed his written statement by delivering his defence. On that ground also the revision petitioner is not entitled to condonation of delay.

4. Having regard to the fact that the petitioner herein has come to Court



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with a false averment, this Court is not inclined to exercise the discretion in favour of the revision petitioner. I do not find any illegality or irregularity in the order passed by the Court below.

5. Accordingly, the Civil Revision Petition stands dismissed. No costs.

Consequently, the connected civil miscellaneous petition is closed.

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Index : Yes / No
Speaking Order : Yes / No
dm

To

The Sub Court,
Dharapuram.



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S.SOUNTHAR, J.

dm

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