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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2022

CORAM :

THE HONOURABLE MS. JUSTICE R.N.MANJULA

C.R.P.(NPD).No.1948 of 2022
and
C.M.P.No.9879 of 2022

K.S.Mohandas,
Represented by his Power Agent,
K. Selvaraj. ... Petitioner

..Vs..

1.K.Santha Kumari,
Represented by her Power Agent K.Sekar.
2.K.Sekar. ... Respondents

Prayer :- Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order and decretal order passed in I.A.No.769 of 2018 in O.S.No.439 of 2016, dated 04.04.2022, on the file of the Principal District Munsif, Poonamallee, Thiruvallur District and consequentially dismiss the petition with cost throughout.

For Petitioner : Mr.M.L.Ramesh
For Respondents : Mr.K.G.Kannan

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O R D E R

This Civil Revision Petition has been preferred challenging the order dated 04.04.2022 made in I.A.No.769 of 2018 in O.S.No.439 of 2016 on the file of the Principal District Munsif Court, Poonamallee, Thiruvallur District.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondents and also perused the materials available on record.

3.The revision petitioner is the plaintiff, who filed a suit in O.S.No.439 of 2016 for permanent injunction. On 26.04.2017, the suit was decreed *ex parte* and thereafter, the respondents/defendants 1 and 2 filed an application to set aside the *ex parte* decree along with the application to condone the delay of 337 days. The application to condone the delay was allowed. Aggrieved over that the petitioner has preferred this revision.

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4. The learned counsel for the revision petitioner submitted that despite receiving the summons, the respondents/defendants wantonly omitted to make their appearance before the Court and now, after the delay of one year filed the application to set aside the *ex parte* decree, with a view to dilate the proceedings.

5. On perusal of the order of the learned trial Judge, it is seen that the trial Judge had specifically observed that in order to facilitate the parties to contest the suit on merits a liberal approach is taken and the delay is condoned.

6. No doubt, if the respondents/defendants wantonly make delay and dilate the proceedings that would effect the interest of the revision petitioner/plaintiff. However, when an opportunity is given to the respondents/defendants to contest the case on merits that will serve the interest of the revision petitioner/plaintiff as well. Because the suit can be disposed at the end on merits after a full fledged trial.

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7. Considering the pragmatic approach taken by the learned trial Judge, I feel that the order passed by the learned trial Judge should not be reversed. However, it will be appreciable, if the learned trial Judge dispose of the suit in O.S.No.439 of 2016 as early as possible.

8. Accordingly, this Civil Revision Petition is disposed of and the learned Principal District Munsif, Poonamallee, Thiruvallur District is directed to dispose of the suit in O.S.No.439 of 2016 as expeditiously as possible preferably, within a period of six months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

27.06.2022

Index:Yes No
Speaking Order:Yes/No
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To

The Principal District Munsif,
Poonamallee,
Thiruvallur District.

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R.N.MANJULA, J.

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