



C.R.P.(PD) No.1817/2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.07.2022

CORAM

THE HONOURABLE Ms. JUSTICE R.N.MANJULA

**C.R.P.(PD)No.1817 of 2022
and
CMP.No.9629 of 2022**

C.S.Sivakumar	...	Petitioner
1.P.Malathi		
	Vs.	
2.Thulasimani	...	Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 06.04.2022 passed in I.A.No. 1 of 2021 in OS.No.98/2012 on the file of the District Munsif Court, Perundurai.

For Petitioner : Mr.R.Nalliyappan
For Respondent : Mr. N.Chinnaraj

ORDER

This Civil Revision Petition has been preferred challenging the order of the file of the District Munsif Court, Perundurai, dated 06.04.2022 passed in I.A.No. 1 of 2021 in OS.No.98/2012.



2. The revision petitioner is the 2nd defendant in the suit filed by the plaintiff for the reliefs of declaration and permanent injunction.

3. The revision petitioner/2nd defendant was set *ex-parte* on 14.12.2012 and thereafter, he filed a petition in IA.No.1/2021 to set aside the *ex-parte* order and the same was dismissed. Aggrieved over that the respondent/2nd defendant filed this Revision.

4. Heard the submissions made by either side learned counsel and perused the materials available on record.

5. Mr.R.Nalliyappan, learned counsel for the revision petitioner submitted that the petitioner had filed the petition to set-aside the *ex-parte* order along with his written statement and the suit is still in the stage of trial and hence in the interest of justice an opportunity should be given to him.

6. Mr.N.Chinnaraj, learned counsel for the respondent submitted that despite the revision petitioner was set *ex-parte* in the year 2012, he has chosen to file this petition only after a lapse of 8 years and that too on the



flimsy reasons that he was suffering from jaundice.

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7. It is seen that the petitioner who was set *ex-parte* on 14.12.2012, did not take any steps for nearly 8 years to set aside the *ex-parte* order. The suit is still pending at the stage of trial as against the contesting 1st defendant. The revision petitioner has stated the routine reason that he was suffering from jaundice and that is far from satisfactory; taking into consideration of the pendency of the suit and also the fact that the written statement has been attached with this petition, I feel an opportunity should be given to the revision petitioner. However he has chosen to file the petition after several years to the surprise of the respondent/plaintiff and for which he should suffer costs.

In the result, the Civil Revision Petition is **allowed** and the order dated 06.04.2022 passed in I.A.No. 1 of 2021 in OS.No.98/2012 on the file of the District Munsif Court, Perundurai, is set-aside and the petition in I.A.No. 1 of 2021 in OS.No.98/2012 is allowed on payment of Rs. 5000/- [Rupees Five thousand only] to the respondents within a period of two weeks from the date of receipt of copy of this order, failing which the petition will stand



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dismissed automatically. Considering the long pendency of the suit the trial

Judge is impressed to dispose the suit as expeditiously as possible.

Consequently connected miscellaneous petition is also closed.

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Index : Yes/No

Speaking Order : Yes / No

jrs



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R.N.MANJULA, J.,

jrs

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1. The District Munsif Court, Perundurai.
2. The Section Officer,
VR Section, Madras High Court,
Chennai.

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