



CRP.No. 249 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.12.2022

CORAM:

THE HONOURABLE **MRS. JUSTICE V.BHAVANI SUBBAROYAN**

CRP.No. 249 of 2021

and

C.M.P. No. 2405 of 2021

Harimurugan

.. Petitioner

Versus

Kannadasan

.. Respondent

Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and decretal order dated 18.07.2019 in I.A.No. 466 of 2018 in O.S.No. 130 of 2015 on the file of on the file of II Additional District Judge, Puducherry.

For Petitioner : Mr. D. Ravichander

For Respondent : Mr.K. Muralidharan



CRP.No. 249 of 2021

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ORDER

Challenging the order dated 18.07.2019 in I.A.No. 466 of 2018 in O.S.No. 130 of 2015 passed by the learned II Additional District Judge, Puducherry, the petitioner/plaintiff has filed the present Civil Revision Petition.

2. By the order under challenge the petition filed by the respondent herein under Section 5 of the Limitation Act, to condone the delay of 272 days in filing the petition to set aside the ex-parte decree dated 27.07.2017 was allowed on condition that the respondent shall pay cost assessed at Rs.2,000/- to the petitioner herein.

3. The learned counsel for the petitioner vehemently argued that even though sufficient cause was not shown by the respondent, the Court below allowed the said I.A. which is ingross violation of Section 5 of the Limitation Act.

4. The learned counsel for the respondent submitted that the Court



CRP.No. 249 of 2021

below has passed a well reasoned order and, therefore, the discretion exercised by the Court below ought not to be interfered with.

5. Considering the facts and circumstances of the case and the plea raised by the respondent before the Court below that the delay was on account of the ill-health of the respondent, this Court finds no reason to interfere with the discretion exercised by the Court below in condoning the delay of 272 day. However, the costs directed to be paid by the respondent to the petitioner by the Court below is enhanced to **Rs.10,000/- (Rupees Ten Thousand Only)** as against Rs.2,000/- awarded by the Court below.

6. The Civil Revision Petition is disposed of accordingly. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

12.12.2022

Speaking order / Non speaking order
msm



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CRP.No. 249 of 2021

V.BHAVANI SUBBAROYAN, J.

msm

CRP.No. 249 of 2021

12.12.2022