



C.R.P.No.3118 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.10.2022

CORAM :

THE HONOURABLE MR. JUSTICE **S.SOUNTHAR**

C.R.P.No.3118 of 2022
and
C.M.P.No.16758 of 2022

Ganesamoorthy

... Petitioner

..Vs.

1.Uma Devi
2.Harita
3.Bharanitharan

... Respondents

Civil Revision Petition filed under Article 227 of Constitution of India to set aside the judgment and decree dated 21.07.2022 made in I.A.No.9 of 2020 in O.S.No.3 of 2018 made by the learned Family Court at Villupuram and allow the said Application in I.A.No.9 of 2020 in O.S.No.3 of 2018 on the file of the learned Family Court at Villupuram.

For Petitioner : Mr.M.Stalin

For Respondent : Mr.C.Munusamy, for Caveator



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ORDER

This Civil Revision Petition has been filed challenging the order passed by the Court below dismissing the petition to condone the delay of 386 days in filing a petition seeking to set aside the ex-parte decree for maintenance passed against the petitioner.

2. The respondents namely wife and children of the petitioner herein filed a original suit in O.S.No.3 of 2018 seeking maintenance. The said suit was decreed ex-parte on 30.09.2019 by directing the petitioner to pay a sum of Rs.20,000/- (Rupees Twenty Thousand Only) per month to the respondents towards maintenance. The petitioner herein filed a petition seeking to set aside ex-parte decree along with the petition to condone the delay of 386 days in filing the petition seeking to set aside ex-parte decree. The said petition came to be dismissed by the Court below on the ground that the petitioner failed to explain the delay properly.

3. When this civil revision petition was taken up for hearing, the learned counsel for the respondents submitted that he has no objections for allowing the revision in order to give an opportunity to the petitioner to



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conduct the suit on merits. However, the learned counsel for the respondent requested this Court to direct the petitioner to pay a portion of the decretal amount namely Rs.7,50,000/- (Rupees Seven Lakhs and Fifty Thousand Only) on or before 04.11.2022 as a condition for allowing the revision petition.

4. In view of the consensus reached between the learned counsel for the petitioner and the respondent, this Civil Revision Petition is allowed on condition that the petitioner is paying a sum of Rs.7,50,000/- (Rupees Seven Lakhs and Fifty Thousand Only) to the respondents on or before 04.11.2022. The petitioner is permitted to take demand draft in the name of the first respondent and hand over the same to the learned counsel for the respondents within the said period.

5. In case, if the petitioner failed to pay the amount within the time stipulated, the Civil Revision Petition stands automatically dismissed. It is made clear that the amount paid by the revision petitioner, in pursuance of the order passed by this Court, is without prejudice to the rights of the



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parties.

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6. The suit is of the year 2018. Taking into consideration the fact and circumstances of the case, the Court below is directed to dispose of the petition filed by the revision petitioner to set aside the ex-parte decree within a period of four weeks from the date of receipt of copy of this order. In case the ex-parte decree is set aside, the Court below is directed to dispose of the suit within a period of six months from thereafter.

7. This Civil Revision Petition is allowed. Consequently, the connected miscellaneous petition is also closed. There shall be no order as to costs.

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Index: Yes/No
Speaking Order: Yes/No
nsa



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To

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1.The Family Court,
Villupuram.

2.The Section Officer,
V.R.Section,
High Court, Madras.



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S.SOUNTHAR, J.

nsa

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