



C.R.P.No.3844 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:24.11.2022

CORAM:

THE HONOURABLE Mr. JUSTICE S.SOUNTHAR

C.R.P.No.3844 of 2022
and C.M.P.No.20211 of 2022

C.Nagarajan

...Petitioner

Versus

R.Ganesan

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, pleaded to set aside the Decree and order dated 14.09.2022 in I.A.No.4 of 2022 in O.S.No.144 of 2019 passed by the learned II Additional Subordinate Judge, Erode.

For Petitioner :Mr.G.Pavendhan

O R D E R

The Civil Revision Petition is filed challenging the order passed by the Court below allowing the petition filed by the respondent seeking to condone the delay of 807 days in filing the petition to set aside the exparte decree dated 19.10.2019.



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2. The petitioner herein filed a suit for specific performance of agreement dated 17.03.2016. When the matter was posted for filing of written statement by the respondent, he failed to appear before the Court below on 12.03.2019 and hence, he was set exparte on that day and subsequently, the exparte decree was passed against the respondent on 19.10.2019.

3. The respondent filed the petition to set aside the exparte decree along with the petition to condone the delay of 807 days in filing the petition to set aside the exparte decree on 3.02.2022. In the affidavit filed in support of the petition to condone the delay, the respondent had stated that he was a heart patient and taking treatment for heart ailment at the relevant point of time. Due to health issues, he could not contact his counsel and instruct him to file the written statement in time. The said application was seriously opposed by the petitioner by filing counter affidavit. The respondent herein along with the petition to condone the delay in filing the petition to set aside the exparte decree, also filed his written statement to show his bonafides. The court below exercised its discretion and condoned the delay in order to give an opportunity to the respondent to conduct the case on merit. Since, there is some delay on the part of the respondent in approaching the Court, the Court below imposed a cost of



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Rs.3000/- on the respondent, as a condition for allowing the petition to condone the delay.

4. In view of the fact the Court below has exercised its discretion in favour of the respondent and condoned the delay by imposing cost on him to compensate the petitioner, this Court is not inclined to interfere with the order passed by the Court below. Consequently, the Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

24.11.2022

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Index: Yes/ No

Speaking Order / Non-Speaking Order

Note: If the petitioner has submitted the original plaint at the time of filing the Civil Revision Petition, Registry is directed to return the same.

To

The II Additional Subordinate Court,
Erode.



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S.SOUNTHAR, J.

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