



WEB COPY

C.R.P(MD)No.1696 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.03.2022

CORAM

THE HON'BLE MRS.JUSTICE S.ANANTHI

C.R.P(MD)No.1696 of 2021

and

C.M.P(MD)No.9118 of 2021

R.Easwari

... Petitioner/Defendant

Vs.

R.Nalluchamy

...Respondent/Plaintiff

PRAYER: Civil Revision Petition filed under Article 115 of the Civil Procedure Code, to allow this Civil Revision Petition and set aside the order passed in I.A.No.520 of 2018 in O.S.No.339 of 2014 on the file of the Subordinate Court,Theni dated 01.09.2021.

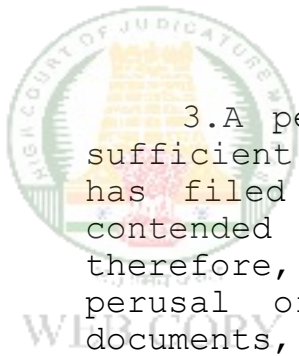
For Petitioner : Mr.R.Raja Mohan

For Respondent : Mr.M.Saravanan

ORDER

The Civil Revision Petition has been filed to set aside the order dated 01.09.2021 made in I.A.No.520 of 2018 in O.S.No.339 of 2014 on the file of the Subordinate Court, Theni.

2.I.A.No.520 of 2018 was filed by the revision petitioner/defendant under Section 5 of the Limitation Act, to condone the delay of 151 days in filing the petition, which was dismissed by the learned Subordinate Judge, Theni. The reasons stated by the revision petitioner/defendant that she temporarily shifted her residence to Agamalai Village and there is no telephone communication, therefore, she could not contact her counsel. Since she is unable to attend the Court on 07.07.2017, an ex-parte decree was passed at the earlier stage. The suit was filed in the year 2014 and ex-parte decree was passed on 05.11.2015 and thereafter, set aside petition in I.A.No.585 of 2015 was filed and the same was allowed on payment of cost. Again, the case was posted for cross-examination of PW1. On that day, after several adjournments, the revision petitioner/defendant was not ready to cross-examine PW1, therefore, cost of Rs.200/- is also imposed. Again on 07.11.2016, the defendant was set ex-parte. Therefore, he filed set aside petition in I.A.No.1061 of 2016 and the same was allowed on cost and again he filed I.A.No.189 of 2017, to re-call, which was allowed on payment of cost. Again on 11.04.2017, the revision petitioner/defendant was set exparte, he filed I.A.No.520 of 2018 and the same was dismissed. Aggrieved by the said order, he filed this Civil Revision Petition.



3.A perusal of records would show that the petitioner has no sufficient cause for his absence. It is third time, the petitioner has filed petition to condone the delay of 151 days. Now, she contended that since the Sub Court has not framed the issues, therefore, the judgment passed by this Court is not valid. On perusal of judgment, the Sub Judge, after analyzing all the documents, passed the judgment on merits. In spite of non appearance of the petitioner, she has no right to question the validity of the judgment in this petition. She may file an appeal and agitate the judgment. She has also received the notice in E.P. on 15.12.2017. But she filed this petition on June 2018. The revision petitioner has knowledge of the pendency of the suit. Therefore, it is the duty of the petitioner to enquire about the suit and attend without fail. Since the petition is filed for third time without proper reason, this Court finds no valid reason to interfere with the order of the Court below.

4.In view of the above, this Civil Revision Petition is dismissed. The order dated 01.09.2021 made in I.A.No.520 of 2018 in O.S.No.339 of 2014 passed by the learned Subordinate Judge, Theni, is hereby confirmed. No costs. Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

vsd

To

The Subordinate Judge,
Theni.

+1 CC to M/s.R.RAJAMOHAN, Advocate (SR-14669[F] dated 25/03/2022)

+1 CC to M/s.M.SARAVANAN, Advocate (SR-14599[F] dated 25/03/2022)

C.R.P (MD) No.1696 of 2021
and

C.M.P (MD) No.9118 of 2021

Dated:

24.03.2022

RK(11/05/2022) 2P 4C