



CRP (MD) No.1939 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 23.09.2022

CORAM:

THE HONOURABLE MR.JUSTICE **B. PUGALENDHI**

CRP (MD) No.1939 of 2022

and

CMP (MD) No.8828 of 2022

Durai.Senthil

... Petitioner

Vs

Singaravadivelan

... Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order made in I.A.No.125 of 2019 in O.S.No.42 of 2018 on the file of the III Additional District Judge, Thanjavur @ Pattukottai, dated 26.07.2022 and allow this civil revision petition.

For Petitioner : Mr.T.Sekar

ORDER

This civil revision petition is filed as against the fair and decreetal passed by the learned III Additional District Judge, Thanjavur @ Pattukottai in I.A.No.125 of 2019 in O.S.No.42 of 2018.



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2.The petitioner / plaintiff has filed the above suit in O.S.No.42 of 2018 for recovery of money of Rs.75,00,000/- as against the respondent. The said suit was decreed *ex-parte* on 19.11.2018. The petitioner has also filed an execution petition in E.P.No.44 of 2019. Pending EP, the respondent filed an interlocutory application in I.A.No.125 of 2019 in O.S.No.42 of 2018, under Section 5 of the Limitation Act to condone the delay of 235 days in filing the application to set aside the *ex-parte* order with vague averment that he was out of station and therefore, the written statement was not filed in time. The trial Court in order to provide one more opportunity to the respondent/ defendant has allowed the said application. Aggrieved over the same, the present civil revision petition is filed.

3.The suit was posted for filing of written statement on 12.09.2018, 12.10.2018 and 12.11.2019. The learned Counsel for the respondent has not filed the written statement and reported no instruction on 12.11.2019 and therefore, he was set *ex-parte* and the *ex-parte* decree was also passed on 19.11.2019.



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4.Considering the amount involved and also in order to provide one more opportunity to the respondent, the trial Court allowed the application by condoning the delay of 235 days in filing the application to set aside the ex-parte decree.

5.This Court is also of the view that the respondent should be provided an opportunity to substantiate his case before the trial Court and therefore, this Court is not inclined to interfere with the orders of the trial Court. However, the trial Court is directed to dispose of the suit in O.S.No.42 of 2018 as expeditiously as possible.

6.The civil revision petition stands dismissed accordingly. No costs. Consequently connected miscellaneous petition also stands dismissed.

23.09.2022

dsk

To
III Additional District Judge,
Thanjavur @ Pattukottai



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B. PUGALENDHI, J.

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