



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.01.2022

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

C.R.P. (MD)No.1216 of 2017

and

C.M.P. (MD)No.5808 of 2017

Subbiah

... Petitioner/1st Defendant

Vs.

Kandasamy

... Respondent/Plaintiff

Prayer:- Civil Revision Petition filed under Section 115 CPC., to set aside the fair and decreetal order made in I.A.No.640 of 2016 in O.S.No.56 of 2014 dated 23.03.2017 pending on the file of the learned District Munsif Kovilpatti by allowing this Revision.

For Petitioner : No appearance

For Respondents : Mr.H.Arumugam

ORDER

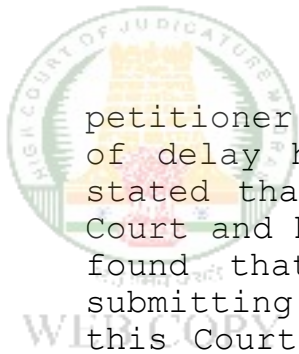
This Civil Revision Petition is of the year 2017. Despite several opportunities have been given, there is no representation on the side of the revision petitioner.

2. The respondent filed a suit against the petitioner in O.S.No.56 of 2014 on the file of the Principal District Munsif, Kovilpatti. An ex-parte decree was passed on 08.09.2015. The petitioner filed an application in I.A.No.640 of 2016, under Section 5 of the Limitation Act to condone the delay of 363 days in filing the application for setting aside the ex-parte decree. The said petition to condone the delay was dismissed by the Trial Court on 23.03.2017. Challenging the said order, the petitioner has filed the present revision petition before this Court.

3.Since there is no representation from the petitioner, heard the learned counsel for the respondent.

4.It is seen that the petitioner has filed an affidavit in support of the petition in which he has stated that he had sustained fracture in his leg and therefore took treatment in Kerala. Whereas he has not filed any supporting document to prove his contention and he has not substantiated the reason stated in the affidavit.

5.Therefore, the trial Court considered the case of the petitioner and came to the conclusion that the reasons stated by the



petitioner is a bald one. It is a settled proposition that each day of delay has to be explained. In this case, the petitioner has stated that due to fracture, he could not appear before the trial Court and his son also taking treatment at Kerala. The trial Court found that the petitioner has not proved the said reason by submitting any medical certificate or any other proof. Therefore, this Court does not find any reason to interfere with the order of the trial Court.

6.It is a settled proposition that condone the delay is purely discretionary power of the trial Court unless the Revision Court finds any arbitrariness in the findings of the trial Court, the Revision Court cannot interfere with the order of the Trial Court. This Court does not find any merit in this petition and this Civil Revision Petition is liable to be dismissed.

7.Consequently, this Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition stands closed.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

pnn

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The District Munsif, Kovilpatti.

Copy to

The Record keeper, Vernacular Section,
Madurai Bench of Madras High Court, Madurai. (2 copies)

+1 CC to M/s.H.ARUMUGAM, Advocate SR.No.2329

+1 CC to Mr.S.SIVAILYARAJA, Advocate SR.No. 358

**C.R.P. (MD)No.1216 of 2017
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vr(CO)

TR(09.02.2022) 2P 6C