



WEB COPY



CRP No.1660 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.09.2023

CORAM:

THE HON'BLE Mrs.JUSTICE **V.BHAVANI SUBBAROYAN**

**Civil Revision Petition No.1660 of 2022
and CMP.No.8266 of 2022**

Jayamurugan

... Petitioner

Vs.

Jayammal

... Respondent

Civil Revision Petition filed under Article 227 of Constitution of India to set aside the fair and decreetal order passed in IA.No.1 of 2019 in OS.No.197 of 2011 dated 06.10.2021 on the file of the District Munsif, Rasipuram, Namakkal District.

For Petitioner : Mr.G.Munuraj
For respondent : Mr.A.T.Anbukumar

ORDER

The present Civil Revision Petition has been filed to set aside the fair and decreetal order passed by the District Munsif, Rasipuram, Namakkal in IA.No.1 of 2019 in OS.No.197 of 2011 dated 06.10.2021.

2. The brief facts of the case is as follows:-

The petitioner herein is the defendant in the suit. The said suit was filed for partition. The suit is filed by the respondent herein during the year 2011. During the pendency of the suit, the petitioner was set exparte and exparte decree was passed on 17.06.2017. Thereafter, the petitioner



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filed IA.No.1 of 2019 for condoning 564 days delay and to set aside the exparte decree. The trial Court dismissed the said petition. Challenging the said order dated 06.10.2021, the petitioner is before this Court.

3. The learned counsel for the petitioner would submit that the petitioner/defendant has filed the written statement in the suit and he was set exparte in the suit. During the pendency of the suit, the petitioner received notice for final decree proceedings and due to his ill-health and family problems he was unable to contact his lower Court counsel. After recovering from his ill-health, the petitioner approached the lower Court counsel and explained the situation and filed the petition to condone the delay and to set aside the exparte decree. The trial Court without going into the facts stated in the petition dismissed the claim of the petitioner. Hence, the petitioner is before this Court.

4. The learned counsel for the respondent/plaintiff stated that the suit is of the year 2011 and at the stage of attaining finality, the petitioner purposely after a lapse of more than 18months filed the petition to condone the delay to set aside the exparte decree dated 06.10.2021, the petition has been filed belatedly in order to prolong the proceedings. Hence, the learned counsel prays to dismiss the petition.



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5. Heard the learned counsel for the petitioner and the learned counsel for the respondent and perused the materials available on record.

6. On perusal of records, this Court finds that the petitioner/defendant was actively participated in the Suit proceedings, at the time of passing the order the petitioner evade to contest the suit proceedings. The trial Court rightly passed the exparte decree after serving notice on the petitioner to appear for the final decree proceedings. The petitioner after lapse of more than 18months approached the trial Court stating that he had undergone treatment and faced lot of family problem, whereas no documents have been added to the petition for taking medical treatment and the petitioner has also stated that he attempted to commit suicide. The trial Court after enquiry dismissed the petition for condoning the delay stating that no valid documents has been supported the case of the petitioner. It is also recorded that several opportunities were given to the petitioner to contest the case, and notice was also served on him to that effect.

7. This Court finds, that there is no valid ground has been made out by the petitioner to substantiate the claim that he had attempted to commit suicide and undergone medical treatment and family problems and no



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documents has been annexed with the petition or filed before the Court, at the time of hearing the petition. This Court finds that there is no illegality or infirmity in the order passed by the trial Court.

8. The Civil revision petition is dismissed accordingly. No costs. Consequently, connected miscellaneous petition is closed.

27.09.2023

Index:Yes/No
Internet:Yes/No
Speaking / Nonspeaking order
tsh

To
The District Munsif, Rasipuram, Namakkal.



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