



C.R.P.No.1796 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2023

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

C.R.P.No.1796 of 2019
and C.M.P.No.11781 of 2019

L.Saravanan

... Petitioner

Vs.

Mahendran

... Respondent

Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order in I.A.No.303 of 2018 in O.S.No.288 of 2014 dated 04.01.2019 passed by the learned Subordinate Judge, Uthangarai and thereby allow the Civil Revision Petition.

For Petitioner : Mr.B.Gopalakrishnan

For Respondent : M/s.M.A.R.Pragash
Mr.D.S.Ravikumar



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ORDER

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This Civil Revision Petition has been filed by the defendant against the fair and decreetal order passed in I.A.No.303 of 2018 in O.S.No.288 of 2014 by the Sub Court, Uthangarai, dated 04.01.2019, dismissing the application filed under Section 5 of the Limitation Act to condone the delay of 908 days in filing the petition to set aside the ex-parte decree.

2.Heard Mr.B.Gopalakrishnan, learned counsel appearing on behalf of the petitioner and Mr.M.A.R.Pragash, learned counsel appearing on behalf of the respondent.

3.The respondent/plaintiff filed a suit for recovery of money. The suit was decreed ex-parte through Judgment and Decree dated 14.09.2015. The petitioner filed I.A.No.303 of 2018 under Section 5 of the Limitation Act to condone the delay of 908 days in filing the petition to set aside the ex-parte decree.



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4.The Court below dismissed the application mainly on the ground that the notice was served on the petitioner in the suit and the petitioner also filed the written statement in the suit and the case was at the stage of examination of PW1. The petitioner did not take any steps to cross-examine PW1 and failed to appear before the Court and hence, the petitioner was set ex-parte on 07.09.2015 and the ex-parte Decree was passed on 14.09.2015. The Court below did not find any reasonable cause for condoning such an exorbitant delay.

5.In the considered view of this Court, the order passed by the Court below does not suffer from any illegality or infirmity, warranting the interference of this Court in exercise of its jurisdiction under Article 227 of the Constitution of India. That apart, it is brought to the notice of this Court that the Decree has already been put to execution by the respondent in E.P.No.21 of 2018 before the Sub Court, Uthangarai and out of the total Decree amount of Rs.2,96,000/-, till date, the respondent has settled a sum of Rs.40,000/- The case is being posted from time to time before the Execution Court to



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enable the respondent to settle the amount to the petitioner. This is yet another reason as to why this Court does not want to interfere with the order passed by the Court below.

6.In the result, this Civil Revision Petition stands dismissed. No Costs.

Consequently, connected miscellaneous petition is closed.

11.01.2023

Internet : Yes ./ No
Index : Yes ./ No
Speaking Order / Non Speaking Order
Neutral Citation Case : Yes ./ No
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To
The Subordinate Judge,
Uthangarai.



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N. ANAND VENKATESH, J.

SSR

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