



C.R.P.No.2042 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.07.2023

CORAM

THE HON'BLE MR.JUSTICE V. LAKSHMINARAYANAN

Civil Revision Petition No.2042 of 2019
and C.M.P.No.13240 of 2019

Kumar

... Petitioner

-Vs-

1.Lakshmi @ Guruvayammal
2.Palanisamy
3.Sellappan
4.Subban

... Respondents

Prayer : Civil Revision Petition under Section 115 of Civil Procedure Code against the fair and final order dated 27.04.2019 in I.A.No.86 of 2018 in O.S.No.374 of 2012 on the file of the Principal District Munsif Court, Bhavani.

For Petitioner : Mr.Kaithamalai Kumaran
For Respondents : Mr.B.Gokulakrishnan
for Mr.B.Kumarasamy

ORDER

The suit had been filed for declaration of title and for recovery of possession. In the said suit, though summons was served, the defendant was not in a position to appear before the Court, which resulted in the passing of an ex parte decree on 14.08.2013. To set aside the same, an application was filed with a delay of 1454 days. The reason for the delay is that the petitioner was attending to his aged parents and therefore was not in a position to come before the Court.



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2. Though the reason does not sound plausible, since vital rights to immovable property is involved, I am inclined to condone the delay, but imposing heavy costs. I am also doing so because, in order to prove his bonafides, a written statement has been filed along with the condone delay application.

3. Therefore, the civil revision petition is allowed, condoning the delay of 1454 days, on the condition that the petitioner/defendant shall **pay** to the respondents/plaintiffs a sum of Rs.50,000/- (Rupees Fifty Thousand only) as costs to condone the delay, within a period of six weeks from today. On such payment, the learned Principal District Munsif, Bhavani is requested to take up the application for setting aside the exparte decree under Order 9 Rule 13 and allow the same. Since a written statement has already been filed, appropriate issues may be framed and the suit be disposed of at an early date. It is made clear that, if the costs of Rs.50,000/- is not paid within six weeks, the civil revision petition shall stand dismissed. The civil revision petition is allowed accordingly. Consequently, connected C.M.P.No.13240 of 2019 is closed.

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Index : Yes/No

NCS : Yes/No

KST



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To

The Principal District Munsif,
Bhavani.



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V. LAKSHMINARAYANAN, J.

KST

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