



C.R.P.(PD).No.2496 of 2019
and C.M.P.No.16280 of 2019

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.03.2023

CORAM

THE HONOURABLE **MR.JUSTICE N.SESHASAYEE**

C.R.P.(PD).No.2496 of 2019
and C.M.P.No.16280 of 2019

Chokkalingam

... Petitioner

Vs.

Senthilkumar

... Respondent

Prayer: Petition filed under Article 227 of the Constitution of India, seeking to set aside the order dated 15.11.2018 passed in I.A.No.261 of 2017 in O.S.No.18 of 2010 passed by the learned Sub Judge, Jayankondam, Ariyalur District.

For Petitioner : M/s.K.M.Vijayan Associates

For Respondent : Mr.P.Parthikannan

ORDER

Aggrieved by an order allowing an application for condonation of delay of 1764 days in filing an application to set aside an exparte decree, the plaintiff is before the Court.



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2. The contention of 4th defendant, who took out this application is that summons was not duly served on him, and he did not know about the institution of the suit, whereas it has been later found that the summons was served on another adult member of the house.

3. Heard both sides.

4. At the end of the day, these are all aspects where this Court to be varying or interfering with the discretion exercised by the trial Court unless palpable injustice is shown to have been occasioned to the other side. So far as the present case is concerned, the only injustice this Court finds is in the choice of cost which the trial Court has imposed on the 4th defendant / respondent herein. It had awarded a cost of Rs.1,500/- for a delay of 1764 days. Any delay post exparte decree bound to cause inconvenience and uncertainty to the plaintiff and he reasonably needs to be compensated with cost.

5. Therefore, this Court enhances the cost payable to the plaintiff to



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Rs.10,000/- (Rupees Ten Thousand only), which he is required to comply within a period of two weeks from today.

6.The Revision Petition is disposed of accordingly. No Costs. Consequently, the connected miscellaneous petition is closed.

7.Post the matter on 21.03.2023 under the caption "for reporting compliance".

08.03.2023

Anu

Index : yes / no

Internet : yes / no

Speaking / non speaking

Copy to:

The Sub Judge, Jayankondam, Ariyalur District.

N.SESHASAYEE.J.,

Anu



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