



C.R.P.No.2577 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.07.2023

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

**C.R.P.No.2577 of 2023
and
C.M.P.No.15907 of 2023**

G.Dakshinamurthy

... Petitioner

-VS-

1. R.Saraswathi

2. M.Malarkodi

3. V.Manavalan

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order and decree made in I.A.No.201 of 2020 in C.O.S.No.128 of 2008 on the file of the District Munsif-cum-Judicial Magistrate Court, Thandarampattu, Tiruvannamalai District dated 24.03.2023.

For Petitioner

: Mr.S.Vijayakumar



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ORDER

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The petitioner/second plaintiff has filed the present Civil Revision Petition challenging the order dated 24.03.2023 passed in I.A.No.201 of 2020 in C.O.S.No.128 of 2008 on the file of the District Munsif-cum-Judicial Magistrate Court, Thandarampattu, Tiruvannamalai District.

2. The said suit was filed by the plaintiffs for permanent injunction restraining the defendants from in any manner interfering with the plaintiffs' peaceful possession and enjoyment of the suit property.

3. The learned counsel for the petitioner submitted that the Court below had decreed the suit ex-parte on 30.11.2018. The defendants 1 and 2 have filed the application to condone the delay of 242 days in filing the petition to set aside the ex-parte decree. The Court below allowed the said application on payment of costs of Rs.2,000/-. Challenging the same, the second plaintiff has filed the present Civil Revision Petition. He further submitted that the there is no sufficient cause shown by the defendants to set aside the ex-parte decree. Before setting aside the ex-parte decree, the



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Court has to satisfy itself with the sufficient reasons stated in petition filed for condoning the delay. The Court below did not consider the cogent reasons to condone the delay and there is no bona-fide on the part of the defendants 1 and 2 in filing the petition to set aside the ex-parte decree for non appearing before the Court below.

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

5. The Court has to exercise the discretionary relief in filing the petition to set aside the ex-part decree independently. In this case, the defendants1 and 2 have given medical reasons by setting aside the ex-parte decree. Therefore, this Court is of the view that the Court below had rightly exercised its discretionary by condoning the delay on payment of costs.

6. Any how, this Court is of the view that the delay can be condoned on payment of costs as rightly directed by the Court below. Accordingly, this Civil Revision Petition is disposed of, with a direction to the Trial



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Court to dispose of the suit itself on merits and in accordance with law, as expeditiously as possible, preferably within a period of one year since the suit is of the year 2008. The parties shall co-operate for disposed of the suit expeditiously, as directed above. Consequently, the connected Miscellaneous Petition is closed. No costs.

28.07.2023

Index : Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
kv

To

The District Munsif-cum-Judicial Magistrate Court,
Thandampattu,
Tiruvannamalai District.



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V.BHAVANI SUBBAROYAN,J.

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