



CRP. No. 3693 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2023

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

CRP No. 3693 of 2023
CMP No. 23141 of 2023

Senthil Vinayagam

...Petitioner

Vs.

Thikkasamy

....Respondent

PRAYER : This petition filed under Article 227 of the Constitution of India, to set aside the order passed by the Subordinate judge at Poonamallee, Chennai - 600 056 in IA No. 316 of 2017 in O.S No. 315 of 2013, dated 02.12.2022.

For Petitioner : Mr.A.Ramasamy

For Respondent: Not Appeared

ORDER

This petition has been filed to set aside the order passed by the Subordinate judge at Poonamallee, Chennai in IA No. 316 of 2017 in O.S No. 315 of 2013, dated 02.12.2022.



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2. The petitioner herein filed IA No. 316 of 2017 in O.S No. 315 of 2013 to condone the delay of 1075 days for filing the petition to set aside the exparte decree dated 20.07.2014 in O.S No. 315 of 2013. considering the submissions on either side the Court below dismissed the said application. challenging the same the petitioner filed this petition.

3. The learned counsel for the petitioner submits that due to illness and the death of his father the petitioner was not able to appear before the Court below and his non appearance is not wilful nor wanton. Hence, he prays to allow this petition.

4. Considering the facts of the case, if the opportunity is not given to the petitioner his valuable right to defend the case will be defeated. Hence, the order passed by the Trial Court in IA No. 316 of 2017 in O.S No. 315 of 2013, dated 02.12.2022 is set aside. Further, the petitioner is directed to pay a sum of Rs.5,000/- as cost to the respondent. After verifying the payment of cost, the Trial Court shall take Order IX Rule 13 application on file and dispose of the same on merits within a period of four weeks from the date of receipt of a copy of this order.



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WEB COPY 5. In the result, this petition is disposed of. Consequentially,
connected miscellaneous petition is closed.

21.12.2023

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To

The Subordinate judge at Poonamallee, Chennai.



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T.V.THAMILSELVI,J.

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