



WEB COPY



CRP. No. 1975 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.11.2023

CORAM:

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

CRP No. 1975 of 2023

&

CMP No. 12461 of 2023

V.Sakthi

Vs.

...Petitioner

- 1.Jagadambal
- 2.Vijyarani
- 3.VittalInthan
- 4.Jayaraman
- 5.Lakshmanan
- 6.Janardhanam
7. Paranthaman
- 8.Gowri
- 9.Anjammal
- 10.Saroja
- 11.Bhuvaneswari
- 12.N.Govindaraj
- 13.Anandhi
- 14.Perama

(R2 died respondents 9 to 14 brought on record as Lrs of the deceased R2 viz. Vijayaranai vide court order dated 17.03.2023 made in CMP Nos. 16500 of 2016 and CMP Nos. 20718, 20722 and 20723 of 2019 in CRP SR No.58440 of 2016 by TVTSJ)

....Respondents



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PRAYER : This petition filed under Section 115 of CPC, to set aside the fair and decretal order passed by the learned Additional District Munsiff, Villupuram in I.A No. 641 of 2014 in O.S No. 336 of 2004 dated 25.02.2016.

For Petitioner : Mr. J.Titus Enock
For Respondents : Mr. K.S.Jeyaganesan

ORDER

Challenging the impugned order dated 25.02.2012 passed by the Additional District Munsiff, Villupuram, in I.A No. 641 of 2014 in O.S No. 336 of 2004, the petitioner/17th defendant in O.S No. 336 of 2004 filed this petition.

2. The petitioner herein filed I.A No. 641 of 2014 in O.S No. 336 of 2004 on the file of the Additional District Munsiff, Villupuram, to condone the delay of 1826 days for filing I.A to set aside the exparte decree dated 03.07.2009, that application was strongly objected by the respondent stating that proper notice was served on the petitioner but he failed to appear before the Court. After considering the submissions on either side, the Trial Court dismissed the said application. Challenging the same the petitioner filed this petition.



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3. The learned counsel for the petitioner submits that due to illness the petitioner was not able to follow the suit proceedings. Due to non appearance of the the petitioner suit was set exparte on 03.07.2009. Thereafter, the petitioner herein filed petition to condone the delay of 1826 days for filing the petition to set aside the exaparte decree but the same was dismissed by the Trial court. Further he submits that if the opportunity is not given to the petitioner to defend his case his valuable right to defend the case will be defeated.

4. The learned counsel the respondents submit that in order to drag on the proceedings the petitioner herein filed the application and the same was rightly appreciated by the Court below which needs no interference. Hence he prays to dismiss this petition.

5. Considering the facts of the case, if the opportunity is not given to the petitioner, it put too much hard ship to the petitioner. Hence the order passed by the Trial Court in in I.A No. 641 of 2014 in O.S No. 336 of 2004 is set aside in respect of 17th defendant only. Further, the petitioner is directed to pay a sum of Rs.25,000/- as cost to the respondents within a period of six weeks from the date of receipt of a copy of this order and the Trial Court is directed to dispose of the suit in O.S No. 336 of 2004 within a



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period of three months from the date of receipt of a copy of this order.

WEB COPY 6. In result, this Civil Revision Petition is disposed of.

Consequentially, Connected miscellaneous petition is closed.

06.11.2023

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T.V.THAMILSELVI,J.

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To

1. The Additional District Munsiff, Villupuram.

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