



CRP(MD).NO.2144 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.02.2023

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

CRP(MD).No.2144 of 2022

and

C.M.P(MD).No.9914 of 2022

R.Sasikannan

... Petitioner/Petitioner/Defendant

Vs.

M.Arunkarthick

... Respondent/Respondent/Defendant

PRAYER : Revision Petition filed under Section 115 of the Code of Civil Procedure, to set aside the order dated 17.08.2022 made in I.A.No. 144 of 2022 in O.S.No.222 of 2019 on the file of the learned Additional Subordinate Court, Thanjavur by allowing this revision petition.

For Petitioner : Mr.M.V.Vankataseshan
For Respondent : Mr.R.Nandakumar

ORDER

The present civil revision petition has been filed challenging an order passed by the learned Additional Subordinate Judge, Thanjavur, refusing to condone the delay of 317 days in re-presenting the application.



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2. The revision petitioner herein is the defendant and he was set *ex-parte* and an *ex-parte* decree was passed on 27.11.2019. An application was filed to set aside the *ex-parte* decree with the delay of 43 days. The said application was returned by the Court on 07.12.2020 for rectification of certain defects. After return, the application was not represented within a time of 30 days, but it was represented only on 16.11.2021 with the delay of 317 days. To condone the delay of 317 days in re-presenting application I.A.No.144 of 2022 was filed. The said application was dismissed by the trial Court refusing to accept the reason assigned by the defendant. The said order is under challenge in the present revision petition.

3. A perusal of the order impugned in the revision indicates that an application under Section 5 of the Act was returned on various occasions and finally it was returned on 07.12.2020 during Covid period and the same was re-presented on 16.11.2021 with the delay of 317 days. However, the delay in filing of an application to set aside the *ex-parte* decree is only 43 days.



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4. Considering the aforesaid facts, this Court is inclined to set aside the order passed by the learned trial Judge and allow I.A.No.144 of 2022 on condition that the revision petitioner shall deposit a sum of Rs. 1000/- to the District Legal Aid Services, Thanjavur, within a period of two weeks from the date of receipt of a copy of this order. Considering the fact that the suit is pending from the year 2019, the learned Additional Subordinate Judge, Thanjavur, is directed to dispose of the suit in O.S.No.222 of 2019 on or before **30.11.2023**.

5. With the aforesaid observations, the Civil Revision Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

15.02.2023

Index : Yes / No

Internet : Yes / No

Rmk

To

1. The Additional Subordinate Court, Thanjavur.

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R.VIJAYAKUMAR ,J.,

Rmk

Order made in
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Dated:
15.02.2023