



C.R.P(MD)Nos.2386 of 2019 & 2366 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
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DATED: 06.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

C.R.P(MD) Nos.2386 of 2019 & 2366 of 2015

and

M.P.(MD)No.1 of 2015

Sisilet Mary

...Petitioner in both petitions

Vs.

Moses Moni

..Respondent in both petitions

COMMON PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 26.09.2019 and 22.08.2015 passed in I.A.Nos.1176 of 2015 and 492 of 2014 in O.S.No.295 of 2011 on the file of the Principal District Munsif Court, Padmanabhapuram, and allow these Civil Revision Petitions, respectively.



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In both petitions

For Petitioner : Mrs.D.Saranya
for Mr.K.P.Narayanakumar

For Respondent : Mr.D.Senthil Kumar

COMMON ORDER

C.R.P(MD)No.2366 of 2015 is filed against the order dated 22.08.2015 passed in I.A.No.492 of 2014 in O.S.No.295 of 2011 on the file of the Principal District Munsif Court, Padmanabhapuram, wherein, the delay of 740 days in filing a petition to set aside the *ex-parte* decree dated 18.01.2012 in the suit is condoned on condition of payment of costs of Rs.1,000/- (Rupees One Thousand only) payable by the petitioner to the respondent on or before 04.09.2015.

2. C.R.P(MD)No.2386 of 2019 is filed against the order dated 26.09.2019 passed in I.A.No.1176 of 2015 in O.S.No.295 of 2011 on the file of the Principal District Munsif Court,



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Padmanabhapuram, wherein, the petition under Order 9 Rule 13 and Section 151 of Civil Procedure Code, is allowed by the Court below.

3. The petitioner herein is the plaintiff and the respondent is the defendant in the suit in O.S.No.295 of 2011 on the file of the Principal District Munsif Court, Padmanabhapuram. The suit is filed seeking permanent injunction. The said suit was decreed *ex-parte* by decree and judgment, dated 18.01.2012. The respondent had filed a petition to set aside the *ex-parte* order with a delay of 740 days. The Court below after hearing both sides and on consideration of the facts and circumstances of the case, allowed the said petition by order, dated 22.08.2015 on payment of costs of Rs.1,000/- (Rupees One Thousand only) payable by the petitioner therein to the respondent therein.

4. It appears that the petitioner herein refused to receive the costs. Consequently, the respondent deposited in Court and along with receipt, he filed I.A.No.1176 of 2015 under Order 9 Rule



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13 and Section 151 of Civil Procedure Code. The said petition was allowed restoring the suit to its file.

5. As per the submissions of the learned counsel appearing on either side, now the suit proceedings are pending before the Trial Court and trial is going on.

6. Having heard the submissions of the respective counsels and upon careful perusal of the material available on record, the trial Court while allowing I.A.No.492 of 2014 has considered all aspects to condone the delay of 740 days in filing the petition to set aside the *ex-parte* decree, dated 18.01.2012 in the suit observing that the petitioner therein has shown sufficient cause to condone the delay. As such this Court is not inclined to interfere into the reasoned order passed by the trial Court in I.A.No.492 of 2014.



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7. Accordingly, **C.R.P(MD)No.2366 of 2015** is dismissed.

8. For the reasons stated above, as the petitioner refused to receive the cost as per the order of the Court, dated 22.08.2015 in I.A.No.492 of 2014, the order of the trial Court in allowing I.A.No.1176 of 2015 is in accordance with law and as such no interference is required in the Civil Revision Petition in C.R.P(MD)No.2386 of 2019.

9. Accordingly, **C.R.P(MD)No.2386 of 2019** is dismissed.

10. However, considering the submissions of the respective counsels that the trial is going on in the suit and in view of the fact that the suit is of the year 2011, in our considered view, it is appropriate to direct the Principal District Munsif, Principal District Munsif Court, Padmanabhapuram, to complete the suit



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proceedings as expeditiously as possible, preferably, within a period of six months from the date of receipt of a copy of this order.

11. No costs.

12. Consequently, connected miscellaneous petition is closed.

06.11.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

RM

To

The Principal District Munsif,
Principal District Munsif Court,
Padmanabhapuram.



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BATTU DEVANAND, J.

RM

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