



C.R.P.No.2956 of 2024
and C.M.P.No.15815 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.11.2024

CORAM

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

C.R.P.No.2956 of 2024
and C.M.P.No.15815 of 2024

Rasu

.. Petitioner

Vs.

1.Vijayakumari

2.Ramanitham

3.Gnanasundari

.. Respondents

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, against the fair and decreetal order as made in I.A.No.100 of 2020 in O.S.No.22 of 2012, dated 18.11.2022, on the file of the I Additional District & Sessions Court, Cuddalore.

For Petitioner : Mr.V.Balamurugan

For R1 : Mr.D.Baskar

For R2 & R3 : No Appearance



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ORDER

This Civil Revision Petition has been filed against the fair and decreetal order as made in I.A.No.100 of 2020 in O.S.No.22 of 2012, dated 18.11.2022, on the file of the I Additional District & Sessions Court, Cuddalore.

2.The case of the petitioner/1st defendant is that the suit was originally filed by the 1st respondent/plaintiff, who is the sister of the petitioner, claiming partition. The petitioner entered appearance in the said suit. However, he has not filed the written statement and thus, the ex-parte decree was passed on 07.11.2012. Thereafter, the application has been filed by the petitioner to condone the delay of 2645 days in filing the application to set aside the ex-parte decree on the ground that the Senior Advocate did not inform the petitioner about the filing of the written statement. Further, the 1st respondent approached and informed the petitioner that she would withdraw the suit and demanded three sovereigns of gold jewelery. The petitioner gave three sovereigns of gold to the 1st respondent and was under



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the impression that the 1st respondent would have withdrawn the suit.

However, the Court below has dismissed the said condone delay application. Aggrieved over the same, the present petition has been filed.

3.Learned counsel appearing for the petitioner submitted that the petitioner was not aware that written statement has to be filed since the Senior Advocate engaged by him has not properly guided him in respect of the same. Further, the 1st respondent assured the petitioner that she would withdraw the suit by demanding three sovereigns of gold jewelry. Therefore, the petitioner was under the impression that the suit might have been withdrawn. Therefore, the delay was neither wilful nor wanton and hence, he prayed to set aside the order dated 18.11.2022 passed in I.A.No.100 of 2020 on the file of the I Additional District & Sessions Court, Cuddalore.

4.Learned counsel appearing for the 1st respondent submitted that the petitioner was well aware of the suit proceedings. Though he entered appearance in the suit, he failed to file the written statement and therefore,



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the Court below rightly set the petitioner ex-parte and after waiting for about two months, the Court below decreed the suit. Further, there was no compromise talk held between the 1st respondent and the petitioner. Hence, he prayed to dismiss the present Civil Revision Petition.

5.Heard the learned counsel for the petitioner as well as the 1st respondent and perused the materials available on record.

6.Upon hearing, this Court is of the view that for rendering substantial justice liberal approach has to be given while condoning the delay. At the outset, satisfactory explanation has to be given by the parties for the condonation of the delay. In the present case, the petitioner entered appearance in the suit filed by his own sister and he was well aware of the proceedings. After many years of passing the decree, he cannot approach the Court to set aside the ex-parte decree with the flimsy reasons without any satisfactory explanation. The reasons given by the petitioner for the delay does not have any factual background. The petitioner must be vigilant in following the case and he cannot just sleep over the matter and



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blame the Advocate after several years.

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7.In view of the above, this Court does not find any merits in the Civil Revision Petition. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently connected miscellaneous petition is also closed.

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rst

Index : Yes/No

Internet: Yes/No

Speaking/Non-Speaking Order

To:

The I Additional District & Sessions Court,
Cuddalore.



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N.SATHISH KUMAR, J.

rst

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