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C.R.P.No.2314 of 2021



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.2314 of 2021 and
C.M.P.No.17533 of 2021

Govindaraj

... Petitioner

Vs.

Madhu

...Respondent

PRAYER: Civil Revision Petition filed under Section 115 of Civil Procedure Code, praying to set aside the fair and decretal order dated 24.06.2020 made in I.A.No.1 of 2019 in O.S.No.290 of 2017 on the file of Principal Sub-Judge, Krishnagiri.

For Petitioner

: M/s. J.Pradeep

For Respondent

:M/s.S.M.Muralidharan

ORDER

The Civil Revision Petition is filed challenging the order passed by the Court below dismissing the petition filed by the revision petitioner seeking to condone the delay of 269 days in filing petition to set aside the *exparte* decree.



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2. The respondent herein filed a suit for recovery of money based on promissory note. According to the petitioner, after receipt of suit summons, he approached the village elders and consulted them regarding the litigation. It was also claimed by the petitioner that village elders advised him that he was not a necessary party to the suit and believing their words, he had not taken any steps. It was also averred by the petitioner that he was a coolie who used to go outside regularly. Therefore, he could not consult his advocate in time. Only after receipt of notice in execution proceedings, he came to know about the *ex parte* decree passed against him. Hence, the present application has been filed to condone the delay of 269 days in filing petition to set aside the *ex parte* order.

3. The Court below dismissed the application filed by the petitioner on the ground that he failed to name the village elders who advised him regarding the further course of action to be adopted. The petitioner, in his affidavit filed in support of condone delay petition, had stated that he was a coolie and used to go outstation for work as a consequence, he could not consult his advocate immediately. In view of his illiteracy, the petitioner committed some default in



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taking necessary steps to defend the suit. In order to show his bonafide, the petitioner also filed his written statement along with present petition seriously disputing his signature in the pro-note. In view of the same, this Court is inclined to take liberal approach while considering condone delay petition filed by the petitioner. The order passed by the Court below is set aside.

4. Accordingly, the Civil Revision Petition is allowed on condition that petitioner shall deposit a sum of Rs.50,000/- (Rupees fifty thousand only) to the credit of O.S.No.290 of 2017 within a period of four weeks from the date of receipt of a copy of this order. Failing of compliance, the civil revision petition shall automatically stands dismissed. In case, the amount is paid in time as directed, the Court below is directed to take up Order 9 Rule 13 petition and proceed in accordance with law. Consequently, connected miscellaneous petition is closed. No costs.

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Index : Yes / No
Internet : Yes / No
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To

The learned Principal Sub-Judge, Krishnagiri.



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S.SOUNTHAR, J.

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