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C.R.P.(PD).No.2975 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.08.2024

CORAM :

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD).No.2975 of 2024
and C.M.P.No.15921 of 2024

1. Jayaraman
2. Natarajan

.. Petitioners

Versus

M.S.Manivannan (Died)
1. Indira
2. M.Prakash

.. Respondents

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order and decretal order passed in I.A.No.3 of 2023 in I.A.No.203 of 2022 in O.S.No.33 of 2017 on the file of the District Munsif Court, Arakkonam, Vellore district on 09.02.2024.

For Petitioners : Mr.R.Harinath

ORDER

O.S.No.33 of 2017 is a suit for permanent injunction presented by the civil revision petitioners against one M.S.Manivannan. They obtained an *ex parte* decree on 12.11.2019. In order to set aside the same, the legal representatives of the said Manivannan filed an application to condone the



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delay and to set aside the *ex parte* decree. The condone delay petition was numbered as I.A.No.203 of 2022. The respondents before me had filed medical bills in order to substantiate that the said Manivannan was under treatment at the time the *ex parte* decree came to be passed. They would plead that they had misplaced the discharge summary and therefore, they filed an application in I.A.No.3 of 2023 invoking Order VIII Rule 1(3) of the Code of Civil Procedure to condone the delay to receive the additional documents. The learned District Munsif, Arakkonam, Vellore exercised her discretion and allowed the petition. Against which, the present Revision Case is filed.

2. Heard Mr.R.Harinath, learned Counsel for the civil revision petitioners.

3. Mr.R.Harinath submits that absolutely no reasons have been given by the respondents herein for the purpose of receipt of the documents. Therefore, he would plead for interference in the said order.



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4. The narration of the aforesaid facts would go to show that the respondents before me are the legal representatives of the original defendant, Manivannan. The reason they have pleaded for the suit ending in an *ex parte* decree is that Manivannan was sick and had to be hospitalised. The perusal of the order shows that they have produced the medical bills to substantiate the same. They were unable to produce the discharge summary from the hospital because they had misplaced it. Hence, they filed I.A.No.3 of 2023.

5. An application under Order VIII Rule 1(3) of the Code of Civil Procedure requires liberal interpretation. The Court has to give sufficient opportunity to a party to produce all the available records that the party has, in order to substantiate his case. It is not disputed that the medical bills are already on record. What is sought to be produced under the present order is the discharge summary. It is possible that the party could have misplaced the same, especially, after the leader of the house namely, Manivannan, had gone to meet his maker. The learned Trial Judge, having exercised the discretion, I am not inclined to interfere with the said order, unless and until it is capricious or arbitrary. The impugned order suffers from neither-vice



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and therefore, I am constrained to confirm the order of the learned District Munsif, Arakkonam, Vellore in I.A.No.3 of 2023 in I.A.No.203 of 2022 in O.S.No.33 of 2017, dated 09.02.2024.

6. At this stage, Mr.R.Harinath would submit that the defendants are trying to drag on the matter by not making their submissions in I.A.No.203 of 2022. The learned District Munsif will take note that the application is only to condone the delay to set aside an *ex parte* decree. She is requested to expedite the matter and dispose the same as expeditiously as possible preferably within a period of eight weeks from the date of receipt of a copy of this order.

7. This Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

06.08.2024

Index : yes/no
Speaking order/Non-speaking order
Neutral Citation : yes/no
grs



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To
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The District Munsif Court,
Arakkonam, Vellore district.



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V.LAKSHMINARAYANAN, J.

grs

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