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C.R.P.No.3042 of 2021



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.3042 of 2021 and
C.M.P.No.21493 of 2021

Saminathan

... Petitioner

Vs.

Mahalakshmi

...Respondent

PRAYER: Civil Revision Petition filed under Section 115 of Civil Procedure Code, praying to set aside the order made in I.A.No.03 of 2021 in O.S.No.145 of 2018 on the file of the learned Sub-Judge, Jayankondam, Ariyalur District dated 23.10.2021.

For Petitioner

: Mr.R.Sivaraman

For Respondent

: Mr.M.R.Jothimanian
for M/s.K.Balu

ORDER

The civil revision petition is filed challenging the order passed by the Court below dismissing the petition filed to condone the delay of 702 days in filing petition to set aside the exparte decree.



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2. The respondent herein filed a suit for specific performance and an *exparte* decree was passed against the petitioner on 04.02.2017. Thereafter, an application has been filed by the petitioner on the ground that he was suffering from Jaundice at the relevant point of time. The *exparte* decree was set aside and the suit was taken up for hearing. Thereafter, in spite of several adjourments, the petitioner failed to file written statement. Hence, again he was set *exparte* on 30.10.2018. After recording of *exparte* evidence, the *exparte* decree was passed on 14.03.2019. Thereafter, the respondent herein filed execution petition in E.P.No.6 of 2021 and the same is pending. Only after filing of execution petition, the petitioner has come up with the present application to set aside the *exparte* decree with delay. The present application has been filed on 15.03.2021. In the affidavit filed in support of condone delay petition, it is stated by the petitioner that at the relevant point of time, he was suffering from fever and hence, he could not take immediate steps to set aside the *exparte* decree due to outbreak of Covid-19. The Court below rightly pointed out that outbreak of Covid had taken place only during 22nd March, 2020 and the petitioner was set *exparte* on 30.10.2018 and the *exparte* decree



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was passed against him on 14.03.2019 nearly one year prior to the outbreak of Covid-19 pandemic. Therefore, disbelieving the averments made by the petitioner, the petition filed by him seeking condonation of delay was dismissed. I do not find any illegality or irregularity in the order passed by the Court below.

3. Accordingly, the Civil Revision Petition stands dismissed. No costs.

Consequently, the connected miscellaneous petition is closed.

12.01.2024

Index : Yes / No
Internet : Yes / No
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S.SOUNTHAR, J.

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To

The learned Sub-Judge, Jayankondam, Ariyalur District.

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12.01.2024

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