



C.R.P.(MD)No.848 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.11.2024

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

C.R.P.(MD)No.848 of 2021
and C.M.P.(MD).No.4542 of 2021

1.K.Chinnu

2.T.Palanisamy

... Petitioners/Petitioners/Defendants

Vs.

K.Ramasamy

... Respondent/Respondent/Plaintiff

PRAYER : Civil Revision Petition is filed under Section 115 of Civil Procedure Code, to set aside the fair and Ex-order dated 20.01.2021 made in I.A.No.197 of 2019 in O.S.No.1 of 2016 on the file of District Munsif cum Judicial Magistrate Court, Natham.

For Petitioners : Mr.K.Hemakarthiskeyan

For Respondent : No Appearance

ORDER

This civil revision petition has been filed to set aside the fair and Ex-order dated 20.01.2021 made in I.A.No.197 of 2019 in O.S.No.1 of 2016 on the file of District Munsif cum Judicial Magistrate Court,



Natham.

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2.The facts in brief:

Suit in O.S.No.1 of 2016 was filed by the respondent herein seeking the relief of declaration that the suit property absolutely belongs to him and for permanent injunction and costs.

3.The revision petitioner is the defendant in the main suit, who did not appear before the trial Court and was set exparte and exparte decree was passed on 17.02.2016, granting the relief as prayed by the plaintiff. To set aside the exparte decree and judgment, I.A.No.197 of 2019 is filed by the revision petitioner herein under Section 5 of the Limitation Act to condone the delay of 1337 days with the following averments:

3.1.He received the Court summons in the main suit on 11.01.2016. After receiving the summons, the matter was entrusted to the defendant namely Palani Samy, who is the second defendant, to follow the matter. Thereafter, the defendant went to GRT Estate and Hills, Kodaikanal, where he met with an accident and suffered injuries on his right leg and unable to move from the bed. He was taking the native treatment and

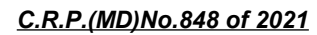


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since because he was unable to appear before the Court, ex parte decree was passed.

4.That was resisted by the respondent herein by filing counter stating that no proper reason was assigned and there is no documentary proof to show his illness. The trial Court after hearing both sides finding that no proper reason is assigned, dismissed the petition. Against which, this revision is preferred.

5.The learned counsel for the revision petitioner maintained the very same grounds, but, produced the medical records showing that he suffered injury and took treatment. The medical records shows that in 2019 in the month of March, he underwent treatment for ailment. But, as mentioned by the trial Court, the decree was passed as early as on 17.02.2016. After three years only it appears that he suffered injury. What happened prior to that date is not explained by him. So the injury suffered by him does not relates to the non appearance before the trial Court on 11.01.2016.



7. Accordingly, this civil revision petition stands dismissed. No
Consequently, connected miscellaneous petition is closed.

NCC : Yes / No
 Index : Yes / No
 Internet : Yes / No
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- 1.The District Munsif cum Judicial Magistrate, Natham.
- 2.The Section Officer, E.R.Section/V.R.Section,
Madurai Bench of Madras High Court, Madurai.



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G.ILANGO VAN,J.

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